

88-1320

JAN 20 1984

No. \_\_\_\_\_

ALEXANDER L. STEVAS,  
CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM,

---

WESLEY K. BELL,                      Defendant Appellant

VS.

TOWNSHIP OF EAGLESWOOD, Plaintiff Appellees

---

ON APPEAL FROM THE SUPREME COURT OF NEW JERSEY

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**JURISDICTIONAL STATEMENT**

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Wesley K. Bell, Pro Se  
188 Route # 72  
P. O. Box 538  
Manahawkin, N.J. 08050  
(609) 5973222

*for Appellant*

January 18th 1984

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## QUESTIONS PRESENTED

1. May the Township of Eagleswood, consistently with the First and Fourteenth Amendments to the United States Constitution, do the following? (a) eliminate and totally prohibit all outdoor advertising within the limits of the Township, (b) arbitrarily concede, in Superior Court, that Outdoor Advertising is permitted up to 32 sq.ft. in business zones, even though no such provision exists in the Zoning Ordinance, (c) use the Police Power to subject the defendant appellant to incarceration and fines of \$50.00 a day because he attempted to maintain billboards on a tract of land which existed since 1960, (d) use the Police Power to levy excessive fines for failure to remove existing billboards deriving an annual income of



\$4,200.00, while he attempted to obtain a stay from a higher court, during pending appeals, (e) interfere with defendant (appellant's) property rights by terminating his non-conforming uses, in a commercially used area, (f) Use the Police Power to arbitrarily enforce an ordinance against this defendant, (appellant) while allowing a competitor to relocate a larger billboard, across the street, at a greater distance than appellants, (g) zone a business area where no residences exist and place a bar, a machine shop and two adjacent billboards into a residential zone and then enforce residential zoning in that commercial area?

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No. ....

In The  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1984

-----  
WESLEY K. BELL

Defendant-Appellant

v.

TOWNSHIP OF EAGLEWOOD

Plaintiff-Appellees  
-----

OPINIONS BELOW

The Supreme Court of New Jersey denied certification on October 25th., 1983 on Appeal from the Appellate Division of Superior Court of New Jersey. The opinion of the Appellate Division of Superior Court of New Jersey was issued on July 25th., 1983 and is contained in the Appendix at (121 a).

The opinion and transcript of the original hearing and decision, dated July 9th., and 22nd., are contained in the Appendix at ( 6 a) and ( 76 a). Judge Henry H. Wiley, J.S.C. of the Superior Court of New Jersey, Chancery Division orders of:

July 22nd., 1981.....	95a
Sept. 24th., 1981.....	98a
Oct. 6th., 1981.....	104a
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July 2nd., 1982.....	118a

An order of Associate Justice Daniel J. O'Hern<sup>nd</sup> of the New Jersey Supreme Court, denying stay, dated Oct. 2nd., 1981 is contained in the Appendix at ( 102 a).

## JURISDICTION

The subject of this case is the Constitutionality of an Ordinance and its enforcement by the Township of Eagleswood, which totally eliminates and destroys the entire outdoor advertising industry within the Township's boundaries.

The Supreme Court of New Jersey in denying Certification, actually upholds the Townships discriminate use of its Police Powers against the same set of standards to others.

The Appellant Courts finding that the "limitation here is reasonable" is in complete violation of the United States Codes:

28 U.S.C. 1291

28 U.S.C. 1331

28 U.S.C. 1343

42 U.S.C. 1983

Jurisdiction of this Court to review the final judgment of the Supreme Court of New Jersey is conferred by 28 U.S.C. 1257(2) (1976).

#### CONSTITUTIONAL AND STATUTORY PROVISIONS

Relevant portions of the First and Fourteenth Amendments to the United States Constitution and the Eagleswood Township Zoning Ordinance and its enforcement thereof, are set forth in the Appendix, commencing at (156 a) and ( 1 a).

#### STATEMENT OF THE CASE

The Defendant Appellant in this case, was the Mayor of an adjacent community, Stafford Township. In 1981, the Mayor won the Democratic Nomination for the State Senate seat, created in the newly restructured Ninth Legislative District, in the State of New Jersey.

The Plaintiff Appellee is a Township known as Eagleswood Township, and its Mayor, John Hendrickson, had won the Republican Nomination for State Assembly, in the same newly created Ninth Legislative District, in New Jersey.

In July, 1981, Plaintiff's Mayor instructed his Zoning Officer to commence an action against this Defendant Appellant and used the Township Attorney, George Gilmore, to take Defendant into Court, repeatedly and continually demanding his incarceration and levying of excessive fines and publicly defaming him during an election campaign. (See Appellants Brief at trial level, page 131 a).

These hearings placed the Defendant Appellant in Court on July 22nd., 1981, Sept. 24th., 1981, Oct. 2nd., 1981, Oct.



6th., 1981, Oct. 19th., 1981, Oct. 21st., 1981 and finally on July 2nd., 1982. Continual, daily front page, adverse and negative publicity, portraying Defendant Bell as a defiant violator of the law and this publicity played a major role in Defendant Appellants defeat in the November, 1981 General Election.

On July 9th., 1981 Plaintiffs attorney met with Judge Henry H. Wiley, alone and in his chambers, for over twenty minutes, just prior to this matter being heard. At that time, this Appellant was not aware that George Gilmore had previously been "clerk" to Judge Henry H. Wiley or he would have demanded that Judge Wiley turn this matter over to another judge.

Defendant Appellant had originally leased this premises and later

purchased an interest, which was later sold in exchange for perminant Real Estate easements, where the Billboards were believed to be located.

The present Zoning Ordinance, if allowed to continue application, will in effect, condemn these easements without compensation.(see Ordinance page 1a).

The Police Power of the Township, in this matter, not only condemns without compensation, but it has levied a fine which now has reached three thousand dollars (see court order of Sept.24th.,1981 on page 98 a and application of Stay of Judgment on page 90 a and 91 a), and had placed a daily and public threat of incarceration of this Appellant (see all court orders page 95 a to 118 a).

The Townships position of enforcing its Ordinance against this Appellant and not on others, is a violation of this Appellants Civil Rights and his right to equal protection under the law.

The Townships enforcement of an Ordinance which does not allow Outdoor Advertising, is unconstitutional on its face and if in fact, a 32 sq.ft. sign was allowed, even though the Ordinance does not set such standards, (see transcript page 81 a), such a small size is, in effect, a total ban because the average size of a billboard in the United States is 300 sq.ft. (Patrick Outdoor Media, Inc. v. Boro of Dickson City 83 Civil 372 (1983), and (Norate Corp. v. Zoning Bd. of Adjustment of Upper Moreland Twp. 417 Pa.397, 207 A.2d 890 (1965)).

The relocation of these billboards are in effect, so insubstantial or negligible that administrative interference by the Plaintiff municipality is improper and a violation of Defendant Appellants Constitutional rights.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL  
INTRODUCTION

The issues raised by this appeal are substantial, as it is suggested, at the outset, by the method that the trial court refused to decide the Constitutional issues which were raised (see transcript of trial on page

76 a). The trial court sidestepped these same issues, which then allowed the Township to continue to violate "Appellants protected rights".

ARGUMENT

I. The total ban on the medium of

Outdoor Advertising is violative of the First Amendment. (Patrick Outdoor Media, Inc. v. Boro of Dickson City 83 Civil 372).

At issue on this appeal is the total "elimination" of a "means of communication and a media for the expression of ideas through outdoor advertising".(See Zoning Ordinance page

a). The parties to the litigation are not alone in so characterizing Outdoor Advertising. Outdoor Advertising has been recognized by the United States Congress, as one of the nations separate and distinct "communications media" in the Federal Campaign Communications Reform Act, 47 U.S.C. 801(1)(repealed 1974). See also Federal Election Campaign Act of 1971, 2 U.S.C. 431,441(d)(1976).

The Ordinance as written and approved

by the Eagleswood Twp. governing body, totally eliminates all Outdoor Advertising within the Township. Yet, to sidestep this issue, Plaintiffs attorney, in court, concedes that the Township will allow a thirty-two sq.ft. Billboard, even though it is not a permitted use.(see transcript at page 27 a.)

A thirty-two sq.ft. Billboard is, in fact, no Billboard at all, because commercial Billboards throughout the United States are at an average size of three hundred sq.ft. in area. (Exton Quarries Inc. v. Zoning Bd. of Adjustment 425 Pa.43, 228 A2d 169(1967); Daikler v. Zoning Bd. of Adjustment, 1 Pa.Commonwealth Ct. 445 275A 2d 696(1971); Shewsbury Twp. v. Glatfelter 87 York Leg.Rec, 41(1973); Creative Displays Inc. v. Twp. of Lower

Macungie Zoning Hearing Board, 40 Lehigh L.J.1 (1982).

The Daikler court further stated that "where there is a total exclusion, no matter how it is accomplished, the municipality must bring forward sufficient and valid reasons for the prohibition". 1 Pa.Commonwealth Ct. at 454, 275A 2d at 699-700. See also Beaver Gasoline Co. 445 Pa. 571, 285 A 2d 501(1971).

The Commonwealth Court considered a similar set of facts to this Eagleswood Twp. case, in that a review of the provisions of the Ordinance, coupled with the omission of any provision for off-site business signs, amounted to a Township-wide prohibition of off-site advertising. (Daikler case, supra, at 1 Pa.Commonwealth Ct.448, 275 A 2d 696-697). See also Creative Displays

Inc.v. Township of Lower Macungie  
Zoning Hearing Bd. 40 Lehigh L.J.1  
(1982) and Patrick Outdoor Media, Inc.  
v. Boro of Dickson City in the Court of  
Common Pleas, Lackawanna County 83  
Civil 372(1983).

II. The Police Power of Eagleswood Township cannot Constitutionally be utilized so as to destroy an individuals right to be in the Outdoor Advertising business, in the absence of proof that continuance of the business in its present form adversely affects the health, safety or tangible welfare of other persons or property. (Daikler v. Zoning Bd. of Adjustment 1 Pa. Comm.Court 445,275 A 2d 696(1971).

This Courts decisions establish that regulation of the use of property is permissible under the police power; but that some alleged regulatory authority



under the police power exceeds constitutional parameters.

Determination of that issue is one of reasonableness, one requiring an assessment of two components - private loss and public gain. (Goldblat v. Town of Hempstead, 369, U.S.590,594(1962).

III. The provisions and enforcement exercised by Eagleswood Twp., to repeatedly and publicly demand to hold this defendant for incarceration and for the Trial Judge to hold this defendant for incarceration (see Court Orders page 95 a to 118 a) is unlimited use of police power and is a violation of the United States Constitution. (General Outdoor Advertising Co. v. Goodman, 128 Colo 344, 262 P 2d 261 (1953).

Defendants rights to maintain non-conforming uses on privately owned,

recorded easements are a protected right and each and every day that this right is denied, is in itself, a separate violation of Defendants Constitutional Rights. (Richard J. Elrod v. John Burns, 96 S.Ct. 2673 (1976).

To forbid use of Defendants Billboards and permanent easements are, in fact, a taking of private property without compensation (City of Buffalo v. Michael, 16 N.Y. 2d 88, 262, N.Y.S. 2d 441, 209 N.E. 2d 776 (1965). The Court held "signs and billboards permanently affixed to land or buildings are compensable fixtures". Also National Advertising Co. v. Utah State Road Commission, 26 Utah 2d 132, 486 P 2d 383 (1971). The Court held "defendants have not offered to pay just compensation for the removal of said sign nor is there any evidence

before the Court that there are funds available for payment of just compensation, under these circumstances, as required by Utah Code, Annotated, Section 27-12-136.11(1953) and that there has been no procedure by the Commission to remove the sign and pay just compensation therefor, as provided in the Highway Beautification Act." 496 P 2d at 385.

In the Eagleswood Twp. case, defendant testified that another Billboard, owned by a competitor, which is larger and is located across the highway from Defendants Billboard, was moved a greater distance, without any interference from the Township and therefore the Ordinance was being applied in a discriminatory manner, against Defendant.(see photo exhibits

at pages 88 a and 89 a; testimony at trial level on page 40 a and Brief presented at trial level, addressing this issue on page 131 a.) In Eskind v. City of Vero Beach, 159 So. 2d 209 (Fla.1963) the Supreme Court of Florida stated "that police power measures must not impose discriminatory restrictions on the use of private property".

At the trial level, Defendant presented photographs of a 250 sq.ft. Billboard, across the highway, which carried a message for Plaintiff Mayor and his Republican ticket, for the November General Election, while the Defendant's third Billboard was to carry his advertisement for the same election, for the Democratic Party. (See photos on pages 88 a and 89 a, Brief at trial level on page 131 a, transcript at trial level, July 9, 1981

at page 40 a and transcript of  
Hearing July 22, 1981, as to the form of  
the order, at page 85 a.)


In an Oregon case, the Supreme Court  
ruled in Webb v. State, 217 Ore. 1, 340  
P 2d 968 (1959), "so far as we are  
advised, there is nothing in the nature  
of signs used to advertise the business  
or product of a single commercial  
enterprise, which the legislature could  
have considered more likely to  
interfere with the "safe and efficient  
use, and orderly appearance of the  
highways" than signs erected and  
maintained by different advertisers.  
There is no point of differentiation  
which makes immediate removal of the  
signs of one class expedient,  
desireable or necessary, but not the  
signs of the other. It follows that  
the classification cannot be sustained

and the statute, insofar as it ordains immediate removal of plaintiffs signs, while permitting those which do not conform to different provisions of the statute to remain for five years, contravenes the equal protection clause of the Fourteenth Amendment of the Constitution of the United States, is void. 340 P 2d at 973-974. See also Alabama Indep.Ser.Sta.Assn. v. McDowell, 242 Ala. 424 6 So. 2d 502 (1942).

## CONCLUSION

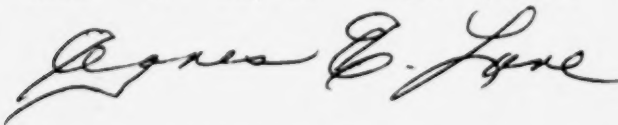
The questions presented by this Appeal are substantial. Probable jurisdiction should be noted and the case set down for argument.

Respectfully submitted.

  
WESLEY K. BELL, Pro Se  
188 Rt.72, P.O.Box 538

My Commission Expires 1-31-86 Manahawkin, N.J. 08050  
(609)597-3222

Sworn & Subscribed before me  
this 8<sup>th</sup> day of Feb, 1984.



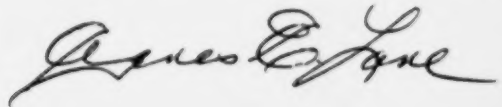
## CERTIFICATION OF SERVICE

I, WESLEY K.BELL, Appellant in the  
above entitled cause, hereby certify  
that on the 8<sup>th</sup> day of February,  
1984, that three copies of the attached  
Brief and Appendix of the Appellant

were served upon George Gilmore, Esq., attorney for Plaintiffs Township of Eagleswood, County of Ocean, State of New Jersey, by Certified Mail, to their office at Nine Allen Street, P.O. Box 1540, Toms River, New Jersey, 08753 and upon the Solicitor General, Department of Justice, Washington, D.C., 20530.

  
WESLEY K. BELL, PRO SE

Sworn and subscribed before me  
on this 8<sup>th</sup> day of February,  
1984



My Commission Expires 1-31-86



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## APPENDICES

## TOWNSHIP OF EAGLESWOOD

## COUNTY OF OCEAN

## STATE OF NEW JERSEY

## CHAPTER 103

## ZONING

SIGN AND BILLBOARD ZONING FOR ALL  
DISTRICTS

103-6	RA	Residential District
103-7	R-1	Residential Zone
103-8	R-2	Residential Zone
103-9	R-3	Residential Zone
103-11	C-1	Marine Commercial District
103-12	C-2	Highway Commercial District
103-13	C-3	Neighborhood Commercial District
103-14	LM	Limited Manufacturing

## G. Permitted signs.

(1) A business or advertising  
free-standing sign not in excess of

thirty-two sq.ft. in surface area per side.

(2) A shopping center shall be permitted two (2) free-standing business signs each not over thirty-two sq.ft. (32) in surface area per side. No part of either sign shall be closer than ten (10) feet from a side lot line. When only one such identification sign is erected, the total surface area may be increased by fifty percent (50%).

(3) Signs for automobile service stations may provided one (1) free-standing double-faced sign not to exceed thirty-two square feet in surface area per side in addition to one (1) wall sign. Said signs shall not exceed twelve (12) inches in thickness and may advertise only the trade name of the product offered for

sale.

## ARTICLE VI

### Nonconforming Uses

103-39. Nonconforming uses of land.

Where, at the effective date of adoption of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter, such use may be continued subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied by such use at the effective date of adoption of this chapter.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption of this chapter.

C. If any such nonconforming use of land ceases for any reason, for a period of one (1) year or more, any subsequent use of such land shall conform to the regulations specified by this chapter for the zoning district in which such land is located.

103-40. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on lot area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity, but may be enlarged or altered, provided that said change does

not extend into any front, side or rear yard established by this chapter, notwithstanding existing setbacks.

103-41. Nonconforming Uses of Structures.

If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. (Rev.Ord.Supp. 12/78)



SUPERIOR COURT OF NEW JERSEY  
OCEAN COUNTY - CHANCERY DIV.

DOCKET NO. C-4054-80

APPEAL NO. A-00428-81

TWP. OF EAGLEWOOD,  
Plaintiff,

TRANSCRIPT

OF

v.

ORDER TO

WESLEY K. BELL,  
Defendant,

SHOW CAUSE

BEFORE: HONORABLE HENRY H. WILEY, J.S.C.

Ocean County Courthouse

Toms River, New Jersey

July 9, 1981

APPEARANCES:

HIERING, GILMORE & MONAHAN, ESQS.

BY: GEORGE GILMORE, ESQ.

for the Plaintiff.

WESLEY K. BELL,

Defendant Pro Se

ORDERED FOR APPEAL BY:

DANIEL SUGRUE, ESQ.

DAYETTE J. ZAMPOLIN, CSR.  
Official Court Reporter  
Ocean County Courthouse  
Toms River, N.J.

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THE COURT: Mr. Gilmore, Mr. Bell gave me a survey and a copy of a prior judgment. Have you seen those documents?

MR. GILMORE: Yes, I have, your Honor.

THE COURT: Do you have any objections to my considering them or looking at them?

MR. GILMORE: As to the partial judgment, no, your Honor. As to the survey, I don't know what it would actually show. There is no indication--the location of the billboard signs by the engineer, itself, there are markings on there.

THE COURT: There is existing sign--

MR. GILMORE: Existing signs, Okay.

THE COURT: In two different places  
as I see it.

MR. BELL: Yes.

MR. GILMORE: One off the property  
and one on the property.

MR. BELL: Right.

THE COURT: Yeah. And so there's  
that, at least to that extent here  
and--

MR. BELL: We didn't--your Honor, we  
didn't have a copy of this survey until  
yesterday when I paid the bill for it.

MR. GILMORE: No. The only question  
I have, your Honor, is there's no way  
of my knowing of the one sign which of  
the three signs on the property it is,  
if any of those three signs, but I have  
no objection to your Honor reviewing  
it--the survey.

THE COURT: All right.

MR. GILMORE: Your Honor, as you know, this is a return date of an Order to Show Cause. Actually, it's an adjourned return date. This matter has been adjourned twice previous to today at the defendant's request.

The matter is quite simple and I feel that our verified complaint and the affidavit of Herman Pharo, the Zoning Officer for the Township of Eagleswood, clearly sets forth the position of the Township. Essentially that is that the defendant has relocated two billboard signs as--and was in the process of relocating a third on the property which he has an easement in an R-2 Residential Zone in the Township of Eagleswood. And at least two of the signs were previous to this time located on another portion of the

property in the Township of Eagleswood and were nonconforming uses as the present Township Code prohibits billboard signs in the R-2 Residential Zone.

The defendant was advised by the--the Zoning Officer for the Township of Eagleswood, Herman Pharo, that he would have to make application for a zoning permit to relocate these three billboard signs. And that application was indeed filled out by the defendant. A copy of that application is attached to the complaint as Exhibit A for the Court's review.

The Zoning Officer for the Township of Eagleswood denied the application as is set forth in his comments on that application for the reason that the relocation was prohibited under Section 103-39 of the Township Code. And I've

attached a copy of that section for your Honor's review as Exhibit B on the verified complaint.

Specifically, the problem we have, your Honor, is billboard signs are not permitted in the R-2 Residential Zone. Signs which are permitted in the R-2 Residential Zone are such that the largest sign permitted cannot have a size exceeding 32 square feet.

The two billboard signs that the defendant has erected have an overall dimension of 11 and a half feet by 30 feet for total square footage of 345 square feet; which is more than ten times in excess of the permitted square footage allowance.

The defendant was advised by letter that his proposed erection of the billboard signs was, in fact, in violation of the 32 foot limit; that letter coming from the attorney for the Board of Adjustment for the Township of Eagleswood, and that letter was attached to the complaint as Exhibit C.

In addition, your Honor has before you the affidavit of Herman Pharo which recites the fact that Mr. Bell was advised that he must fill out a zoning application for a zoning permit, that the same was denied, that the defendant chose not to make--take an appeal to the Board of Adjustment, but rather decided on his own that he did not need his own permit and went about to erect these signs.

No answer has been filed by the defendant in this matter. A brief

filed by the defendant, and that brief raised certain issues which I'll address at this time.

The defendant asserts in point one that these billboard signs are not conforming uses and therefore not subject to the zoning ordinance. While as conceded by the plaintiff that the defendant had located his billboard signs in other portions of the Township prior to erecting them on the present site, that these uses were--the billboard signs were erected prior to the adoption of the Zoning Ordinance of the Township of Eagleswood, and therefore, were nonconforming uses, and if those signs were kept in the same location to this date, the Township would have no right to seek their removal, because they would indeed be not conforming uses; but I think the



defendant misses the point. What the Township is objecting to here is the relocation of these signs in total violation of the Township Code and in total disregard of the denial of the zoning permit by the Zoning Officer of the Township of Eagleswood.

I think it's clear case law in New Jersey that a municipality has a right to regulate and even prohibit billboard signs within its boundaries. And the leading case on that would be United Advertising Corp. versus Borough, 11 New Jersey, 144.

Now, this case is cited in State versus Miller, which is 83 New Jersey, 402, which is a 1980 opinion cited by the defendant and the plaintiff in their respective briefs. So there is no doubt that the Township has the right to regulate billboard signs, and

there is no doubt that the fact that the defendant had a prior nonconforming use of the signs does not grant him the right to relocate those signs at his whim or desire in any other portion of the Township.

Second contention that defendant makes is that there has been a selective enforcement of the present zoning ordinances of the Township of Eagleswood. In this regard, I think the burden is on the defendant to prove selective enforcement. It's a heavy burden that's been set forth in the numerous cases on this issue in the State of New Jersey, and unless the defendant is prepared to offer proofs which would satisfy this Court that there has been selective enforcement, that argument has no validity, and the defendant makes one reference to an

individual or corporation that was permitted to construct the sign which the defendant alleges is in violation of the zoning ordinance; however, there is no factual basis or background given concerning this application.

Point three in defendant's brief asserts that he's a candidate for political office, and that the plaintiff is bringing this action as a means of harassment. I for one totally do not understand this argument. The plaintiff is bringing an action to enforce its zoning ordinances, and I do not think that the mere fact an individual against whom the ordinance is sought to be enforced, the fact that he's running for office in any way lessens the responsibility of the Township to enforce its ordinances.

And as has been previously stated,

we're speaking essentially about three billboard signs, two of which have been completed, the third of which as of this date has not been completed. I believe only the poles have been inserted in the ground.

Now, your Honor, I have pictures of these billboard signs. I believe the defendant does also. And I would show them to the Court, first to the defendant.

MR. BELL: I have no objections.

THE COURT: All right. They can be marked P-1, just tell us how many there are, Mr.-- we'll mark them as a group.

MR. GILMORE: Eight, your Honor.

THE COURT: P-1 then is eight photographs of the signs in question.

(Whereupon above referred to exhibits received and marked P-1 in evidence).

MR. GILMORE: Your Honor, I'd show

these pictures to your Honor, and they show two signs and several poles, in addition to a third sign. Your Honor will note that the two billboard signs that are completely erected deal with commercial advertisement. There is no political advertisement there. One, I believe, is for a housing development--in fact, excuse me, I believe both are for housing developments. One for Tradewinds and the second I believe is a ---

THE COURT: Holly Lake Park.

MR. GILMORE: Holly Lake Park. So the assertions by the defendant that these signs are protected by the First Amendment right of free speech do not apply, your Honor. They are commercial signs selling a commercial product, homes.

THE COURT: Well, Tradewinds is for

furniture?

MR. GILMORE: Oh, excuse me, your Honor, furniture, I'm sorry.

THE COURT: It says Tradewinds Furniture underneath on the sign.

MR. GILMORE: Final argument, or excuse me, the fourth argument made by the defendant is that the zoning ordinance is unconstitutional.

To this end he cites State versus Miller, 83 New Jersey, cited at page 405, but I believe it's 402. It's 402. It's a Supreme Court case decided in 1980, and your Honor I would strenuously argue to the Court if anything, State versus Miller authorizes the action taken by this Township Committee before this Court.

And the portion of that case cited to the Court in the plaintiff's brief, the Court noted that while a municipality

could not prohibit signs of a political nature, that they certainly had the right to regulate those signs. And the Court specifically cites two cases from other jurisdictions. One was State--or excuse me, Baldwin versus Redwood City, where a 16 square foot limitation on signs was held not to offend the First Amendment.

The second case was Ross versus G-O-S-H-I, where it was held that 18 square foot limitation did not violate the First Amendment.

Well, your Honor, in the instant case, this action was brought against the defendant, because he exceeded the permissible size of the sign in an R-2 Residential District. The largest permissible sign is 32 square feet. The defendant has the right to put up a 32 foot--square foot sign in--on this

property and the Township would not even be here if that was the case; however, the defendant has elected to put up a 345 square foot sign in total violation and disregard of the zoning ordinance of the Township of Eagleswood.

I think State versus Miller is clear on the holding that a municipality has the right to regulate signs of a political nature even though we have no such sign before this Court.

As I previously stated, the two signs that have been completed are commercial signs, one selling furniture, one selling homes; but even if they were of political nature, the Township has the right to regulate as long as it is reasonable, and I would submit to the Court that a 32 square foot limitation is reasonable in light of the fact that



two previous cases cited by our Supreme Court upheld a 16 square foot limitation and an 18 square foot limitation.

I would suggest to the Court that the proper remedy here is to grant the plaintiff its relief, to order the defendant within a reasonable time to remove these billboard signs and that's the relief I would ask. Thank you.

MR. BELL: Your Honor, I think first of all--I think I--maybe to set the record straight I would like to ask for certain stipulations of record. I'd like to go down them and see if the attorney for the other side would agree to each one of them as I pick it out.

One would be that both bilboards existed as an act of nonconforming use from 1960 to the time of relocation in 1981.

MR. GILMORE: Your Honor, just to save time, I don't think I'm going to stipulate to everything. I'd let the defendant put on his proofs before the Court. I don't know if I have the knowledge to be able to stipulate many of the allegations that have been made.

MR. BELL: I thought, your Honor, to save the Court's time, there are a list of things here that we're getting a lot of his representations from the attorney for the Township of Eagleswood, and I would like to clear them up.

THE COURT: Well--

MR. BELL: One--

THE COURT: --normally, we do this by affidavit, Mr. Bell. Mr. Gilmore has relied on the affidavits and the pictures that he's served in the file here.

MR. BELL: Mr. Gilmore has already made certain representations in his presentation which are not in the affidavits which are not true and are intentionally made for the purpose of making a court record to make myself appear to be a -- a complete violator. And one of his representations are that I erected a sign as 345 square feet, which is not true. The--the application which he talks about clearly states two separate signs. He's talking that I applied for three separate signs. Each sign is 192 square feet, which--

MR. GILMORE: Your Honor, I might be able to save some time here. I--I think I understand what the defendant is trying to say here. If your Honor would look at the Exhibit A where it says Plot Plan and it has B, Building,

there are some figures there filled out by the defendant. The first one reads eight feet by twenty-four feet panel.

Now, that would be the actual surface of the sign, itself, and that would come out to 192 square feet; however, next to that is 11 and a half feet by 30 feet overall size and that would be the overall size of the structure which I believed in my presentation to the Court I stated the overall size of the sign structure itself was 345 feet.

Well, 11 and a half feet times 30 feet comes out to 345 feet. So if the defendant is attempting to assert to the Court that the actual size of the sign, itself, disregarding the structure upon which it sits is 192 feet, then I concede the same.

MR. BELL: Your Honor, there are several other things that I would like

to talk about, and that is that there--maybe I should be sworn in for it or not-I don't know-but I--I'd like to point out that both billboards existed as of 1960. The records, and I believe the affidavit, spells it out clear enough with copies of the leases that are attached, dated October, 1960 and April, 1963, as well as the --the easements and the deeds which are attached to the--the brief.

I think that we have a little different situation here than what is being painted in also the effect that we have a situation really that two billboards is what we're really talking about as far as talking about commercial billboard advertising.

The third billboard which the Building Inspector was informed and which we talked about at the date of

the signing of the Order to Show Cause was that the third sign would be used for political advertising for the upcoming senatorial election, that the political advertisement was a temporary nature. At that time, the attorney for the Township admitted to your Honor that the ordinance of Eagleswood Township does not provide for any sign which is for political advertising in any zone, and I might point out that the cites that he is making on the--the sections of the ordinance which he also talks about 103-8, that he's talking about, permits a 32 square foot political sign, does not permit a 32 square foot political signs, but allows signs of a temporary nature that identify in engineering or architectural contractor engaged in construction of a building provided

that the surface of such sign shall not exceed a total of more than 32 square feet in the area and provided that such signs are removed prior to the occupancy of the building. Doesn't allow or even specify that a political advertisement sign can be put up at 32 square feet, and I challenge, nowhere in the ordinance will you find any provision for any freedom of speech, billboards or signs. And I--

THE COURT: Well, where is, Mr. Bell, the political sign that you're referring to? You see, if you've erected a political sign and it's --it's less than 18 square feet, which I think would comply either with the Baldwin versus Redwood City, or State versus Miller, I would--I would sustain your right to do that, but you haven't even done it, have you?

MR. BELL: Your Honor, there's two pilings that were constructed that those pictures show that the attorney has presented into evidence.

THE COURT: Well--

MR. BELL: Those two pilings are for the sign that was under construction.

THE COURT: That doesn't look like--

MR. BELL: Not these.

THE COURT: Doesn't look like 18 square feet on that piling.

MR. BELL: No.

THE COURT: I don't know.

MR. BELL: The two pilings here behind that sign that were for--

THE COURT: Here's another one with some pilings.

MR. BELL: Right. These were the ones that were removed.

I'd also like to point out, your Honor, that in this photograph that he



has presented is the other billboard across the street that the other company moved, relocated, reversed direction, which my affidavit refers to. That billboard is 250 square feet; last year was exposed in a new condition with shiny facing of raw steel metal, galvanized metal for a period of over two months, and the Zoning Officer and the Mayor goes by that area on a daily basis, and that they had never interfered with or challenged or did anything with that other company for that sign.

I'd like to also point out--

THE COURT: Wait a minute. Let's finish one thing at a time.

MR. BELL: Okay.

THE COURT: Are you--are you contending, Mr. Bell, that on Exhibit P-1, which is a photograph, and on the

bottom of it has--I don't know what that means, but anyway, on the picture itself, it shows a sign, which some of the other pictures indicate is Holly Lake Park.

Then in back of that sign there are two telephone poles.

MR. BELL: Yes. Utility type poles, your Honor.

THE COURT: All right. Utility type poles. And are you contending that on those two utility type poles you're going to erect a political sign on a temporary basis of less than 18 square feet?

MR. BELL: No, your Honor. My argument is that I'm erecting a larger sign than that. And I'm also arguing, your Honor, that the cases that he cites may be so in those particular cases in that Township, but here we

have a Township that has no provision for any sign of any size for political nature. And now we have a situation that I refer to in my brief in the Metromedia case versus San Diego, which was decided on July 2nd. of this month, that that case set aside the ordinance in San Diego because it did not provide for freedom of speech advertising, and that sign sections were declared unconstitutional. That case is probably the most recent. It is the most one on point when you're getting into the discussion of the political advertising.

We have two types of arguments here, one is the political sign, which is under construction by the two pilings. The other is the other two signs which existed since 1960.

Those two signs were not voluntarily

moved, your Honor. We have a Court Order that has been presented to the Court and the docket number C-3654-78 which clearly show that the one sign was across the boundary, and the survey which your Honor has, shows that that billboard was a hundred and 24 feet at one end and a hundred and nine feet on the other from the property line where it belonged. We have a very simple matter here, and that is that the entire tract was located improperly in 1960. The two billboards that were erected on each end of the tract turned out that where one was on a neighboring piece of property and the other was midway in the existing tract. And your Honor, if you look at the--the easements that are of record show that the easements are on the north and south end of that tract, and that when

we found that they weren't on the easements where we belonged and when we found after we received this survey after the suit was filed in 1978, that in July 1979, when this survey was made, we found that we were not where we were supposed to be and it was a simple matter--it was a mislocation of property. In Southern Ocean County and Southern New Jersey, that is not an unusual situation of having a boundary line problem. So actually we have a situation here that the signs as they presently are after their relocation are where they belonged and where they were paid for to be all these years. And it's not an increase of a nonconforming use. It's not a major change. And it's the same zone that it was in prior to their change of the spot on the property.

THE COURT: What about the B section that says: No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the adoption of this chapter?

MR. BELL: Your Honor--

THE COURT: Aren't you bound by that?

MR. BELL: There are two arguments on that. One is that section's unconstitutional as applied here. The other is that for an example, if you're to subdivide a piece of land and it's done through a Court Order, under the non-Land Use Law, there is enough case law on it that if a Court decides that the property is to be subdivided, whether it complies with the subdivision requirements or not, that that Court Order bypasses even the use of the Planning Board for such

approvals, even though it may not meet the standards.

I think we have a similar type of situation here. The New Jersey Land Use Law is fairly new, but we have a situation here that these signs were only relocated because of the Court Order that was entered into in 1979 by your Honor. It was not a voluntary thing by myself to come along and just arbitrarily move a sign.

Another thing that the--the Township's position has been is that the signs were moved after a letter of--of--from the Zoning Officer or the attorney for the Zoning Officer, saying that they couldn't be moved. That's not true, your Honor. That the one sign that was across the boundary line and moved to the north was completed prior to the receipt of that letter.

The other sign, which is midway, that was moved to the north end of the tract, had already been over 50% per cent completed, because the pilings were erected there first and it was just a matter of disassembling the lumber and unbolting it and moving the faces to the new site.

So, your Honor, I think that it's a little bit of a different situation, but the case law in the Metromedia case would determine that the third sign which we are erecting would invalidate the entire sign ordinance of Eagleswood Township, because there are no provisions for any freedom of speech advertisements.

I also would like to point out that another argument that should be considered is that under 103-40, nonconforming structures, Section A,



which the Township at this point doesn't want to recognize, that no such structure may be enlarged or altered in any way which increases its nonconformity, but may be enlarged or altered provided that such change does not extend into any front, side, rear yard established by this chapter notwithstanding existing setbacks.

These particular signs in all respects meet all the setback requirements, are not an increase in their nonconformity, or not an enlargement. It's just actually a continuance of a maintaining on that particular piece of property.

I would also like to point out in the New Jersey Land Use Law, Section 40:55D-68, nonconforming structures and uses. Any nonconforming use or structure existing at the time of

passage of an ordinance may be continued upon the lot or in the structure so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof.

I think, your Honor, that--that the relocation of the two signs complies with the New Jersey Land Use Law.

I feel that the ordinance as written and advertised, apparently is--is not in compliance with that Land Use Law, that it goes beyond the authority of the Township in trying to do away with nonconforming uses, or at least as applied by the Township of Eagleswood in this case.

We also have a situation that Eagleswood Township is a very small Township, and I might point out, your Honor, that although we are talking

here about two billboards which are the only two that I own in Eagleswood Township, the Tooker Advertising Company which is a competitive company owns one billboard in that Township, and the R.C. Maxwell Company only owns four billboards in that Township.

And other than that, there are two shelter, bus stop locations, where they put signs on the side of school bus sites. So we really have an area that's a very small town. Its population is very small, and we're not talking about a situation that something that's going to come up everyday. And the billboard across the street that my affidavit refers to, if that company that owns four billboards in that Township which are larger than our billboards can turn that sign around, move it over 300 feet down the

street and completely reconstruct it, that's a brand new sign, and go uninterfered with by the Township, that certainly points out that we are having unequal application of these regulations in that Township. And I feel that's an act of discrimination.

The--another case here that I would like to cite is the Belleville versus Parrillo's Incorporated, 83 New Jersey, 309, 416 A. 2d 388, which is a 1980 case.

The nonconforming use that has not substantial change or enlargement may continue. And I think this case is quite on point in this type of situation.

I would like to ask your Honor, and they're already in the presence of the Court, I would like to ask that be entered into evidence, the survey dated

July 12th., 1979, the advertising contracts currently on the two billboards which show over \$4,000 a year income, the lease is dated October 7th., 1960, and April 10th., 1963, and the deed dated February 14th., 1975, and the deed dated May 31st., 1977, and the easement dated May 31st., 1977.

And I point out, your Honor, in the event that this Court should find and any higher Court should find that these two billboards may not be continued, then I would suffer irreparable harm, because I would then own easements on this piece of property that I have paid and given value for will be totally useless, because they're only usable for billboard sites, and there are no other provisions in the easement that they can be used for anything other than billboard sites; and

therefore, I would suffer irreparable harm if that were to be the decision.

I would also like to point out for the record, your Honor, that the Eagleswood Township zoning ordinance is a permissive ordinance and is not a restrictive ordinance. And therefore, because there are no listings in that zoning anywhere that permit commercial freedom of speech advertising or freedom of speech advertising such as political that the ordinance is unconstitutional in the sign sections.

I would also like to point out for the record, your Honor, that Plaintiff Mayor of Eagleswood Township is John Hendrickson and is a Republican candidate for the State Assembly, District 9, for November 3rd., 1981 and I--and the reason I have another one similar to that that I'd like to put

into the record, if you would hold your objection on the two until I state the other one--

MR. GILMORE: Objection--

MR. BELL: --is that the defendant is the Mayor of Stafford Township and the Democratic candidate for State Senate in District 9 on November 3rd., 1981. That the Eagleswood Township and Stafford Township are adjacent Townships to each other. And the reason why I put that forth, your Honor, is because I feel that this entire matter is a -- is a political retaliation--retaliation, and that it's done for political purposes. And my affidavit points that out and the argument in my brief. And I think it's of importance to be on the record.

MR. GILMORE: If I may respond, your Honor.

Your Honor, several statements have been made before this Court by the defendant which I think need clarification.

First of all, there is a reference to the fact that a Court ordered subdivision or I think more properly the word would be partition of a property can take place without any review by Municipal Planning Board, but I would point out to the Court that this is so because it is a specific Statutory exception in the Land Use Act, itself.

One of the enumerated exceptions where one does not have to go before the Municipal Planning Board is a Court ordered partition.

Second of all, your Honor, reference has been made to Section 108.40, Subsection A; however, in construing



that section, one has to read the preceding language which states: Where a lawful structure exists at the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on lot area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued and then the provisions continue. It does not deal with a nonconforming use at all. The use of the property does not cover a prohibited use which we have here.

Again, I would point out to your Honor that the Township has never taken a position that the defendant cannot erect political signs on his property or any property he has easements on. The sole position of the Township as is

evidenced in its letter which is attached to exhibit--as Exhibit C to the complaint is that he cannot construct the sign larger than 32 square feet, which is double the size of a sign that was held not to violate the First Amendment right of free speech in Baldwin versus Redwood City. There, the sign was 16 square feet. Here, we allow double the amount, 32 square feet.

I've never made a representation to this Court that the ordinance specifically says 32 square feet for a political sign. What I said to the Court was the largest sign permissible in the R-2 Residential Area is 32 square feet.

The Township Committee takes the position that political free speech can take place by the erection of signs of

any portion, any district of the Township, as long as it conforms to the sign requirement sizes for that district. And I think that it can be amiably upheld under State versus Miller.

The arguments of the defendants that the signs were not properly located when they were installed and that he's going to suffer injury now if this Court orders a removal from my position, your Honor, that's partly the defendant's fault. There's no indication in any affidavit before this Court that the defendant had a survey performed when he erected these signs to be sure that he was erecting them on his property, and if, in fact, such a survey was made, then I would suggest to this Court if this defendant is damaged, his appropriate relief is

against the surveyor. But the Township has ordinances, adopted its ordinances, in conformance with the Land Use Law and has a right to have those ordinances enforced.

THE COURT: This is the return day of an Order to Show Cause brought by the Township of Eagleswood, a municipal corporation of the State of New Jersey against Wesley K. Bell.

The relief sought in the complaint is the removal of billboard signs and restraining the defendant from taking any action to relocate these signs in violation of the provisions of the Township Code of the Township of Eagleswood. There were additional reliefs sought, but I don't believe there's been any proof as to any compensatory or punitive damages. So I would deny any relief sought along

those lines.

The remaining question then is to the rights of the plaintiff to require the defendant to remove the signs referred to and to prevent the relocation of any billboard signs.

The history here indicates that the defendant had two signs on the northerly side of Route 9 in Eagleswood Township. His affidavits indicate that apparently they were mislocated and that in an action brought before the Court they were ordered to be removed from the place they were on, because the defendant had no right to locate them initially on that property.

The defendant then unilaterally relocated the signs on property in the Township that was also residential.

The initial location of the signs was a nonconforming use, because they were

signs, commercial signs, located in a residential zone.

As long as they remained where they initially were, plaintiff had a right--defendant had a right to leave them there; but when he went to relocate them, the municipality said he then must obtain a permit and conform with the Zoning Code of the Township of Eagleswood. He didn't do that--or he attempted to do that and a permit was denied, so he in effect never got the permission of the proper municipal officials to relocate the signs.

The zoning provision Article Six refers to nonconforming use and Section 103.39B reads and I'll quote: No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the

adoption of this chapter.

And here there was an attempt to relocate the sign without first getting the municipal approval. And I find that that is in violation of the municipal ordinance, and therefore, I will order that the two signs which are presently relocated and which have commercial information on them, one is an advertisement, Holly Lake Park, that's how I'll identify that sign. That should be removed. And the other one has the information on it, Tradewinds Furniture; but again, that's a commercial sign. It's been relocated and it's in a residential zone without obtaining first the permission of the proper municipal officers.

Now, Mr. Bell refers to a political sign that he intends to erect which is two--or which--for which there are two

utility type poles to the rear, I'll call it the rear, or the rear face of the sign that I previously referred to which has the commercial information on it, Holly Lake Park.

The Township does not object to him putting a temporary political sign there, but requires that the sign conform to the general requirement of no more than 32 square feet in square footage, or 32 square feet in area. And I will allow Mr. Bell on a temporary basis to install a political sign as long as it doesn't exceed 32 square feet in area on the position that I've referred to in the rear of the Holly Lake Park, and I--I believe that when we say 32 square feet, we're referring to the outside dimension.

Mr. Bell made a point of the difference between the actual sign,



itself, and the overall framework; but I think the ordinance means that the overall frame, the outside dimensions of the whole thing, must be less than 32 square feet. So that he may do that on a temporary basis and insert a political sign since Mr. Bell is running for political office.

I base that on the case of State versus Miller, which is 83 New Jersey, 405, which I believe referred to a square foot area of six--of 18 feet, and the State--the case of Baldwin versus Redwood City where the Court held that the municipality could regulate up to or--or anything above 16 square feet for a political sign. Anything less than that could be established. Anything above it if the municipality said it was illegal or against its zoning was proper to

regulate. So I think the municipality here is doubling the areastandards of the Baldwin versus Redwood City, and not quite doubling the area allowed under State versus Miller.

So--so my ruling then is to remove the two signs that--and the posts and utility poles and all the rest of it on which there is Holly Lake Park sign, commercial sign, and the other one which says Tradewinds Furniture; but that he can use the two utility poles that he's referred to to the rear of the Holly Lake Park sign for a political--temporary political sign not to exceed 32 square feet in area.

I'd ask Mr. Gilmore to prepare the form of the judgment, submit it to Mr. Bell, and I would grant the request that he not locate any other signs or erect any other signs in the

commercial--in a residential area without first complying with the local ordinances.

MR. BELL: Your Honor, I have a couple of questions on your ruling. One is do I interpret your ruling by--or I should say, do I interpret your ruling that in effect you have written or created a new permitted use in the sign section?

THE COURT: Well, I don't think I have to answer that, Mr. Bell. Actually, there is no sign--political sign that you've actually attempted to install; but the municipality has said they will permit you to install a political sign on a temporary basis in a residential zone as long as it's less than 32 square feet. And that's my --my ruling. I will allow you to do that. I will not prohibit them or will

restrict them from prohibiting you from doing it.

MR. BELL: Well, another part that I'm not quite sure of your ruling is that are you limiting me to one 32 square foot sign within the Township limits, or may I put as many 32 foot square political signs as I choose?

In most Townships at election time if you've noticed that there are more than one sign located throughout the Township. On this particular site can I put up one for Florio for Governor, one for the Assemblymen, one for the Freeholders, one for the local candidate and one for myself?

THE COURT: I don't know if that's in issue before me.

MR. GILMORE: Your Honor, that is not an issue before you.

THE COURT: How many--

MR. BELL: Well, your Honor, the reason I say that I thought you were limiting the ruling to one particular -- one 32 square foot sign.

THE COURT: Well, I am limiting my ruling to the two utility poles that you have referred to in--in issue, but--

MR. BELL: It's possible, your Honor, to put more than one sign on those poles.

THE COURT: Well, I don't know that I'm prepared, really, to rule on how many 32 foot square political signs on a temporary basis you can put up. If--if there is a limitation--

MR. BELL: Well, your Honor--

MR. GILMORE: Your Honor--

THE COURT: --I don't know, I'd have to study the cases more closely.

MR. GILMORE: My concern on that,

your Honor, would be if you put 11 your 32 foot signs together, you could end up with a sign of 1600 square feet footage the---

MR. BELL: Not if there's a space between each one.

MR. GILMORE: Your Honor, the entire justification behind the upholding of restrictions on billboards or other signs is the fact that municipalities could take aesthetics into consideration in the zoning ordinances, and while the Courts have held that you cannot restrict freedom of speech, every case that's been decided upholding the right of free speech and authorizing the placement of signs has always dealt with one sign. I know of no case before that's been cited by the defendant or any cases cited in State versus Miller that dealt with more than

one sign.

THE COURT: Well, that's why I'm not really prepared to answer Mr. Bell on that question. I would think another thing, of course, is safety. Some of these signs have some overlap into driving and overall safety, but in any event, my specific ruling, Mr. Bell, as to the two utility poles that you brought to my attention that I've referred to back of the Holly Lake Park sign, and you've indicated that you intend to use those for a political sign and I have upheld your right to do that as long as that political sign does not exceed 32 square feet in overall dimension.

MR. BELL: All right. Thank you, your Honor.

I have two more questions, your Honor. One is: I'd like to request a

15 day extension to file an Answer on this complaint because I found the other day that I actually hadn't filed the Answer in the required time.

THE COURT: Well, is there anything still pending under this ruling? I think this disposes of the case.

MR. GILMORE: Yes, it does, your Honor.

MR. BELL: What I'd also like to ask, your Honor, is stay of the judgment pending a final outcome of an appeal in this matter on the two existing billboards because I intend to file an appeal and take it as high as I can take it, and I don't feel that it's right that I have two existing customers on billboards that have been there since 1960 that I should have to remove them at a later date, possibly be able to reconstruct them and then



have to come back and sue the Township for the damages of the loss of income and the cost of removal and reconstruction.

MR. GILMORE: Your Honor--

MR. BELL: It's a major undertaking for such a cost, \$4,000 a year is a major amount of money per year. If an appeal should take a year for an example there's \$4,000 in loss of income, not counting on the cost of removal and reconstruction of those billboards. And I--I feel, your Honor that the San Diego case, the Metromedia case, because the opinion has not been published yet has not been given enough consideration today, and I feel that a--that a higher Court should be able to review that. And I--I respectfully submit that request, your Honor.

MR. GILMORE: Your Honor, if I may

respond.

Your Honor, I was going to ask that your Honor set a time period for these signs to be removed, and I was going to request that your Honor set a 20 day period. The reason I set forth the 20 day period is that in the partial judgment which the defendant has submitted to this Court and upon which he relied set a similar 20 day limit. I would argue to the Court that this Court should not stay its decision that if the defendant is required to remove the signs within 20 days that gives him ample time to make the appropriate application to the Appellate Division, and if the Appellate Division sees fit, they can issue their own sign.

THE COURT: Well, Mr. Bell, don't you feel that if you win on appeal you can get all the damages you feel you're

entitled to from the municipality? And if they are requesting that the sign be removed that then just keep tract of the costs of removing the signs by you and that you have a financially responsible plaintiff here if you're right and I'm reversed on appeal for whom you can recover your damages and--

MR. BELL: Your Honor, I--

THE COURT: --I don't see then why--why I should stay my--my judgment.

I might mention that I never enter a stay until the Notice of Appeal is filed. Otherwise, I'm just staying my own judgment; but if you file a Notice of Appeal, I think, and the Township wants the signs down within the 20 days--and by the way, I think that's a reasonable length of time, and I'm sure I mentioned in the decision either that I don't find any selective enforcement.

I don't find any proof sufficient to find that as a valid argument. I don't know if I mentioned that, but the 20 days should give you time enough to file your Notice of Appeal, and then if the Appellate Division feels that monetary damages wouldn't recompense you if you're right, then they can grant you a stay; but I don't see in this type of a situation there would be any irreparable harm to you by requiring you to take them down.

On the other hand, if --if I'm affirmed, I just had a case come back to the Appellate Division, took two years. So that would mean that from one to two years this sign would still be there even though the Appellate Division had affirmed me. And--

MR. BELL: Well your Honor, that the--

THE COURT: I don't think that would be right, since--especially since if I'm wrong, you can get whatever monetary damages you're entitled to.

MR. BELL: Your Honor, in another case, that is pending before the Third Circuit Court of Appeals later this month, I might point out which is the 21st. of this month, there is already accumulated over one million dollars in damages and loss of income against the State of New Jersey, in another matter which has spanned a 14 year period. We've reached the point in that case that - you know- that not only keeping track of damages, not having that income in itself is a tremendous problem to me as an operating business individual. And accumulating of these type of--of losses, especially where you have a permanent easement and you

have a situation that--that you have an income that is established for your lifetime, to have somebody step in and take that away at \$4,000 here and \$10,000 there and \$20,000 somewhere else, it accumulates and it makes it very difficult to even exist.

One of the things that I would also like to ask your Honor is that I made a request and I don't know whether I understood your ruling that the contracts, the leases, and the easements were a part of the record. Certain documents.

THE COURT: Well, anything that you wish to make part of the record you should then, I think, be offered in evidence. If Mr. Gilmore doesn't have an objection, you can mark them in evidence.

MR. BELL: He did. I offered that,

your Honor, and I don't think he really objected to it and I would like to have those documents made part of the record so that on appeal that they can't be argued that they can't be used.

THE COURT: All right. Well, then I think the proper way to handle that is for you to offer them in evidence.

MR. GILMORE: Well, your Honor, I believe those documents- and correct me if I'm wrong, Mr. Bell-but I believe those documents are attached to your affidavit.

MR. BELL: Yes.

MR. GILMORE: Then they are part of the record, your Honor.

THE COURT: All right.

MR. BELL: Except for the Court Order which I gave your Honor which I cited in the record the Docket Number C-3654-78, and the --

MR. GILMORE: No objection, your Honor--

MR. BELL: --survey.

THE COURT: All right. Well, then -- then if that's another document, then at least give that one to the reporter and that could be marked D-1, that judgment, and the survey. Mr. Gilmore, any objection?

MR. GILMORE: No objection.

THE COURT: And the survey would be D-2, then D-1 and D-2 should be marked in evidence and I'll answer your other points once the reporter marks those.

(Whereupon above referred to exhibits received and marked D-1 and D-2 in evidence respectively.)

THE COURT: D, right?

THE REPORTER: Yes.

MR. BELL: Would it be necessary, your Honor, that--to give a number to



the contracts and the other things which are in the brief, or would it be sufficient-- MR. GILMORE: They're attached to the affidavit, your Honor. They're part of the record.

THE COURT: Mr. Gilmore's accepting anything that was attached to the affidavits as part of the record. So on appeal you'd have that as part of the record.

MR. BELL: Thank you, your Honor.

THE COURT: Now, your other point about the -- some Federal case and moneys that you contend you're entitled to, I don't know all the facts in that. I'm not sure if I know any of them, but I don't know all of them.

So I don't know how to answer that, or I'm not prepared to answer that.

As far as this case is concerned, I think it's very easy for you to keep

track of whatever losses you have incurred and that's one reason why I say I don't think a stay should be granted. You've got your rental. You know what that is. You're in the business of erecting or--and also I think capable of demolishing a sign and if you're not, then keep the bills and expenses that you incur in demolishing these signs. You've got your rental records, your lease records, and I think it's no--no difficult problem for you to keep track of your damages in the event that the Appellate Division agrees with you.

On the other hand, if they agree with me, then these signs have been there for a year to two years against my order and against the wishes of the municipality. So I think when you weigh those factors that the stay

should not be granted.

MR. BELL: Your Honor--

THE COURT: And I also tell you, of course, that since I will probably refuse it and I don't refuse it as I told you until you file the Notice of Appeal, but once you file the Notice of Appeal, and I refuse it, then you have a right to go to the Appellate Division and they can always grant it even though I've removed it.

MR. BELL: Your Honor, one of the other points I'd like to make is there are a couple other cases that have been pending which are a problem because I have been unable to perform certain work by certain deadlines. I've been very busy. I've been backed up, and trying to reach the point where I can go out and start campaigning on a daily basis seven days a week from now till

November's election.

Any--any Court Order which would force me to remove these signs is going to take part of that time away from my current completion schedules as well as taking away time from my campaigning for public office. And I think that any Court Order that would request that these signs be removed should at least be held up until after the November election.

THE COURT: No. I don't agree with that. As I said before, if you don't want to do it yourself or can't do it yourself, then you hire someone to do it for you. Keep track of your expenses, and if you're right, you can ask--and the Appellate Division agrees with you and if they want, they can incorporate what expenses you have incurred in complying with my order as

part of your rights of recovery against the municipality, or you can make that application.

So I not inclined to grant you a stay, but as I said and I'll repeat it once more, and no more, that you first must file your Notice of Appeal. Otherwise, I'm just staying my own Order for nothing.

Would you prepare the form of the judgment, Mr. Gilmore?

MR. GILMORE: Yes, I will, your Honor.

THE COURT: Submit it to Mr. Bell under our Five Day Rule and I'd like the Order within ten days.

MR. GILMORE: And that Order will provide that the two signs you've ordered to be removed within 20 days of your Honor executing.

THE COURT: That's correct. And I'll

return the exhibits that we have marked  
in evidence.

(Whereupon motion was concluded)

CERTIFICATE

I, DAYETTE J. ZAMPOLIN, a Certified  
Shorthand Reporter and Notary Public of  
the State of New Jersey certify that  
the foregoing is a true and accurate  
transcript of the proceedings as taken  
before me stenographically on the date  
hereinbefore mentioned.

DAYETTE J. ZAMPOLIN, CSR.

Official Court Reporter

DATE: 10/30/81

SUPERIOR COURT OF NEW JERSEY

OCEAN COUNTY - CHANCERY DIV.

DOCKET NO. C-4054-80

APPEAL NO. A-00428-81T02

TWP. OF EAGLESWOOD,

Plaintiff,

TRANSCRIPT

v.

OF

WESLEY K. BELL,

PROCEEDINGS

Defendant.

BEFORE: HONORABLE HENRY H. WILEY, J.S.C.

Ocean County Courthouse'

Toms River, New Jersey

July 22nd., 1981

APPEARANCES: WESLEY K. BELL,  
Defendant Pro Se

ORDERED FOR APPEAL BY:

DANIEL SUGRUE, ESQ.

Rec'd 11/3/81  
Shuman & Butz

DAYETTE J. ZAMPOLIN, CSR  
Ocean County Courthouse  
Toms River, New Jersey

MR. BELL: Yes, your Honor.

THE COURT: I received a letter from you, Mr. Bell, on July 13th., as to the form of the Order. The first paragraph says the Order has no finding that the Court finds that the billboards in question have lost their nonconforming use as a result of their relocation.

MR. BELL: Your Honor, the reason --

THE COURT: I don't think that's an issue before me or wasn't before me, whether the boards -- the billboards in their new location have lost their nonconforming use or they have not--wasn't in issue. The issue was whether you could relocate them pursuant to the ordinance. So I'm not going to make that finding, because it's not--wasn't part of the case.

MR. BELL: Your Honor, the testimony was that the signs were there at a



prior date and that they maintained a nonconforming use. The brief that was submitted to your Honor pointed out about the relocation of the billboards, and I think that was a very clear question that the Appellate Division's going to have to determine in this case. Is, in fact, does a nonconforming use lose its nonconforming use if it's moved by Court Order or whether it's moved a distance of a hundred and 32 feet or 50 feet or whatever it would be in these cases.

There was also submitted affidavits about the billboard across the highway that was moved 325 feet that did not--did not come into any action by the Township Committee and it was permitted and I felt that they were important part that should be included in the Order, those findings.

THE COURT: Well, I disagree. My finding was that the ordinance did not allow you to do what you did here. So I'm not making any more of a finding than that.

Two, the--your second paragraph says the Order has no finding as to the discrimination in which the ordinance is applied to others as it is being applied to this defendant even though no proofs were placed into the record in opposition to defendant's affidavits.

Again, I'm not satisfied with any proof that there was any discrimination against you in this case. I don't --don't recall that really being in issue, except your reference to other signs which might be not really discrimination, but--I'm trying to think of the term, enforcement.

MR. BELL: Unequal enforcement.

THE COURT: Or unequal enforcement or something like that.

Whatever's in the record is in the record. I didn't make any findings or I don't believe and I don't find there was any discrimination against you. So I don't think that's in the--as part of the case or needs to be any finding on that.

Thirdly, the Order has no findings that the ordinance permits political billboards up to 32 square feet as the Judge stated from the bench, even though the political billboard under construction is 96 square feet. Well, I didn't make a finding on that, but the attorney for the Township stated, and I assume he would be bound by his statement, that they, that is the Township, would allow political signs

up to 32 square feet. That was what he said. So that's in the record, and you can get the transcript of the record for that information on appeal if you think you need it. But I didn't make any finding like that. And I agree with that and I don't intend to--and the--

MR. BELL: The argument before your Honor at that point was that--that the ordinance didn't even permit 32 square feet political billboards and that the sign under construction was 96 square feet and that that was part of the argument of the case, and I think that that is a very major part that the Appellate Division will be involved in, because this is an emergent matter when it goes to the Appellate Division, because it's an election matter of an upcoming election which I'm a candidate

for the State of New Jersey State Senate and that is going to be the part of the case that makes it emergent, that that billboard is under construction and should be decided by the Courts before the election so that the benefit of that sign can be utilized.

THE COURT: Well, I'll repeat myself. The attorney for the Township, Mr. Gilmore, stated that the Township's position was that the ordinance permitted political signs up to 32 square feet. That was their interpretation and that if you used a sign 32 square feet for political reasons, you would have a right to do that.

Now, that's their position. I don't give advisory opinions. If they interpret the ordinance that way and

they will let you do it that way, then you can do it that way.

MR. BELL: But your Honor--

THE COURT: So I think that that's part of the record and you have a right to do that; but that wasn't an issue before me in my opinion, and I'm not deciding that anyway, because I don't think there's anything before me that indicates that you put up a political sign and they took down a political sign of yours. So I'm not going to give an advisory opinion on what--

MR. BELL: The brief--the brief in the argument in the case was that, in fact, that third sign was to be a political sign, that it was to be 96 square feet, and they argue that the ordinance permitted 32 square feet when, in fact, it doesn't. I realize your Honor made the decision on the

basis of that consenting that it permitted 32 square feet, but the ordinance was very clear that it did not permit political signs of any size, and therefore that is a question that the Appellate Division will have to get into. In fact, if the ordinance does permit political signs and then if it does limit it to 32 square feet instead of the 96 square feet which this sign is under constructin for-

THE COURT: Well, there was no issue as to a political sign being removed or taken down. That was not before me.

The Township Attorney, Mr. Gilmore, said that the Township's position would be that their ordinance would permit up to 32 square feet of political sign, and that's a position, if taken, that's on the record, and you can get a copy of that transcript. And other than

that, I don't think that's in issue. So I'm not going to make any finding the way you're requesting on that.

And the fourth one, the Order has no finding that the plaintiffs are not persecuting defendant as a result of political harassment. Well, I denied that--that finding. I don't recall that really being in issue either. I didn't find any political harassment either, but I don't think that was in issue before me.

The question was whether this sign violated the ordinance and I found that it did. So I'm not going to make any further finding as to that either, so I'll sign the Order.

MR. BELL: Okay, your Honor. The affidavits though were pretty clear, I felt, in the case that indicated that there was discrimination and that



( the--that the Mayor of Eagleswood  
( Township was on the opposite political  
( ticket which I think was a part of the  
( case, and is an important part of the  
( case.

( THE COURT: No. I don't agree with  
( you. The question was that could that  
( billboard remain, I found it violated  
( the ordinance, and I don't think the  
( issue was on political harassment or  
( whatever you have. So I don't find  
( that to be in issue. So I'm signing  
( the Order and I'll--you can get a copy  
( of it. Mrs. Bedell will do the filing  
( and you can get a file copy. All  
( right. (Whereupon motion was  
( concluded.)

( CERTIFICATE

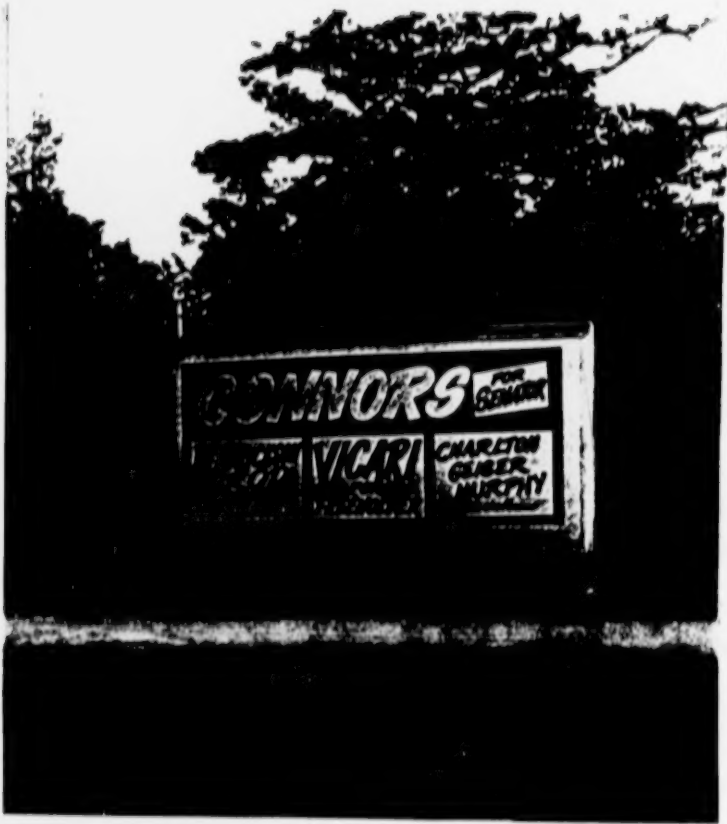
( I, DAYETTE J. ZAMPOLIN, a Certified  
( Shorthand Reporter and Notary Public of  
( the State of New Jersey certify that

the foregoing is a true and accurate  
transcript of the proceedings as taken  
before me stenographically on the date  
hereinbefore mentioned.

DAYETTE J. ZAMPOLIN, CSR.

Official Court Reporter

DATE: ??/??/81



### COMPETITOR'S BILLBOARD

#### ESCAPES ZONING ENFORCEMENT

Republican ad for Legislative Candidates  
includes Eagleswood Township Mayor,  
John Hendrickson for Assembly (1981).



PHOTO shows contested billboard (on left) with Bar in background and R.C. MAXWELL billboard across the highway, which was moved without any Township interference and continues to exist.

NEW JERSEY SUPREME COURT

TRENTON, NEW JERSEY

DOCKET NO. 21,678

TWP. OF EAGLESWOOD, Plaintiff

v.

WESLEY K. BELL, Defendant

Defendants Motion to Stay Judgment  
pending final determination of Appeal  
from orders entered in the New Jersey  
Superior Court by Judge Henry H. Wiley,  
J.S.C., on July 22nd., 1981 and October  
6th., 1981 and the interlocutory order  
in this matter, filed on September 24th.  
1981.

WESLEY K. BELL,

Pro Se

188 Rt. 72, Box 538

Manahawkin, N.J.

08050

609-597-3222

Rec'd 12/20/83  
N.J. Supreme Ct.

NEW JERSEY SUPREME COURT

Trenton, New Jersey

Docket No. 21,678

TOWNSHIP OF EAGLESWOOD

Plaintiff,

v.

WESLEY K. BELL,

Defendant.

Motion to Stay Penalty

& Collection Thereof,

Pending Appeal.

The defendant appellant, Wesley K. Bell, has posted, with the Ocean County Sheriff's Office, the sum of \$3,000.00, in lieu of a cash bond, pending final outcome of defendant's appeal to the United States Supreme Court, in this matter.

The above obligor, in order to more fully secure the plaintiff, pledges as

security thereof, the full amount of  
bond on deposit in trust with the said  
Ocean County Sheriffs Office.

Upon final disposition of this matter  
with the United States Supreme Court,  
defendant binds himself and his  
successors, firmly by these presents.

Sealed with our seal and dated this  
20th. day of December, in our Lord, One  
Thousand Nine Hundred and Eighty Three.

WESLEY K. BELL/s/

Dorothy H. Warren/s/

Sworn & subscribed

Notary Public N.J.

Law Offices

LAWRENCE SILVER

850 West Bay Avenue

P.O.Box 549

Barnegat, New Jersey 08005

November 21st., 1983

Sheriff, Ocean County

Court House

Toms River, N.J. 08753

Re: Eagleswood v. Bell

Docket #C-5599-81

Dear Sir:

Enclosed please find my Trust Check  
in the amount of \$3,000.00 in the  
within matter to be held by the Sheriff  
in lieu of a cash bond pending final  
outcome of Mr. Bell's appeal to the  
United States Supreme Court.

If this money is to be held on any  
other basis by the Sheriff or to be  
treated in any fashion other than a



cash bond in lieu of appeal, it is herein "Demanded" that the said check be returned to me.

Please make the acceptance by signing the bottom of this letter as to the terms expressed herein.

Sincerely

LAWRENCE SILVER/s/

CERTIFICATION OF SERVICE

I, Wesley K. Bell, appellant in the entitled cause, hereby certify that on the 20th., day of December, 1983, sent a copy of this motion to stay the judgment and notice of appeal to plaintiffs attorney.

The above notices were served by Certified Mail upon Gilmore and Monahan, Esquires, at 9 Allen Street, Toms River, New Jersey 08753 and to the Ocean County Sheriffs Office, Hooper Avenue, Toms River, New Jersey 08753.

WESLEY K. BELL, Pro Se /s/

FILED: July 22nd., 1981  
HENRY H. WILEY, J.S.C.  
SUPERIOR COURT OF N.J.  
CHANCERY DIV. OCEAN CO.  
DOCKET NO.C4054-80  
CIVIL ACTION ORDER

Plaintiff,  
TOWNSHIP OF EAGLESWOOD, a  
municipal corp.of N.J.

vs.

Defendant  
WESLEY K. BELL

This matter being opened to the Court  
by Hierarchy, Gilmore & Monahan,  
attorneys for the plaintiff, Township  
of Eagleswood, and in the presence of  
the defendant, Wesley K. Bell, pro se,  
and the Court having considered the  
verified complaint, affidavits and  
briefs submitted by the parties,

together with the arguments of the parties, and for good cause shown;

It is on this 22nd. day of July, 1981, ORDERED as follows:

1. That the defendant, Wesley K. Bell, is hereby ordered to remove the two billboard signs, identified by their advertising for (1) Holly Lake Park and (2) Trade Winds Furniture, within twenty (20) days of the date of this order. Said signs to be completely removed from the subject premises within said time period.

2. In regard to the two poles erected by the defendant, Wesley K. Bell, to the rear of the Holly Lake Park billboard sign, the same may be used by the defendant for the purposes of displaying a temporary, political sign, provided that that sign shall not exceed 32 square feet in over-all

dimension.

3. That the defendant, Wesley K. Bell, is hereby restrained from erecting any other signs which do not comply with the zoning ordinance of the Township of Eagleswood.

HENRY H. WILEY/s/

SUPERIOR COURT OF N.J.

CHANCERY DIV. OCEAN CO.

DOCKET NO.-C 4054-80

Plaintiff	CIVIL ACTION
TWP.OF EAGLESWOOD	Order Finding
a municipal corp.	The Defendant
of the State of	in Violation of
New Jersey	Court Order dated
	7/22/81 &
	Requiring
	Certain Actions by
	the Defendant

vs.

Defendant

WESLEY K. BELL.

FILED: 9/24/81

HENRY H.WILEY,J.S.C.

This matter being opened to the Court  
by Hiering, Gilmore & Monahan, P.A.,

attorneys for the plaintiff, Township of Eagleswood, and in the presence of Schuman & Butz, Esqs., attorneys for the defendant, Wesley K. Bell, Daniel Sugrue, Esq. appearing and the Court having reviewed the affidavits submitted by the parties and the arguments of counsel, and for good cause shown;

It is on this 24th. day of September, 1981, ORDERED as follows:

1. That the defendant, Wesley K. Bell, is in violation of this Court's order, dated July 22nd., 1981, which required the removal of two billboard signs which were erected in violation of the zoning ordinance of the Township of Eagleswood.

2. That this Court does impose a fine of \$50.00 per day, commencing September 22nd, 1981, and continuing

each and every day that the defendant, Wesley K. Bell, fails to remove the two billboard signs in compliance with this Court's order dated July 22, 1981.

It is further ORDERED that the defendant, Wesley K. Bell, has ten (10) days from September 22, 1981, to remove said signs and that this Court continue the plaintiff's motion seeking the incarceration of the defendant until October 1, 1981, at which time this Court will consider the incarceration of the defendant if he has failed to comply with the orders of this Court requiring the removal of the two billboard signs as is set forth in the Court order dated July 22, 1981.

It is further ORDERED that the plaintiff give notice to said Wesley K. Bell, through his attorneys Schuman & Butz, if said billboard signs are not

removed by September 28th., 1981, that said plaintiff on October, 1981, will seek the incarceration of the defendant until such time as he complies with the orders of this court requiring the removal of said two billboard signs.

It is further ORDERED that the application of the defendant for a temporary stay of this Court's order dated July 22, 1981 is hereby denied.

HENRY H. WILEY, J.S.C./s/



SUPREME COURT OF NEW JERSEY

DOCKET NO.

TWP. OF EAGLESWOOD

a municipal corporation of

State of New Jersey

Plaintiff-Respondent

v.

WESLEY K. BELL,

Defendant-Respondent

CIVIL ACTION

ORDER ON APPLICATION FOR

STAY UNDER R. 2:9-8

FILED: 10/2/81

DANIEL J. O'HERN,

ASSOCIATE JUSTICE

This matter having come before the  
Court on application for a stay by a

single justice of the Court until the full Court acts upon the application, and having read and considered the briefs and affidavits submitted by the parties, and it appearing that the principal ground for the stay is economic loss alleged by the defendant, and it further appearing that the trial court has made provision for constitutionally protected expression of political speech,

IT IS, on this 2nd. day of October, 1981, ORDERED that defendant Wesley K. Bell's application for a single justice stay be and the same is hereby denied.

DANIEL J.O'HERN/s/

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO. C 4054-80

Plaintiff,

TOWNSHIP OF EAGLESWOOD, a

municipal corporation of

the State of New Jersey

vs.

Defendant,

WESLEY K. BELL.

CIVIL ACTION

ORDER

FILED: 10/6/81

HENRY H. WILEY, J.S.C.

This matter being opened to the Court  
by Hiering, Gilmore & Monahan, P.A.,  
attorney for plaintiff; Township of  
Eagleswood, on an application to  
enforce litigant's rights and seeking

the incarceration of defendant, Wesley K. Bell, until such time as he complied with the Order of this Court dated July 22nd., 1981, and in the presence of Schuman & Butz, Esqs., attorneys for the defendant, Wesley K. Bell, Daniel Sugrue, Esq. appearing, and the Court having considered the arguments of counsel and having considered the representation of Daniel Sugrue, Esq. that immediate application was being made to the New Jersey Supreme Court for a stay of the July 22, 1981 Order, and for good cause shown;

It is on this 6th. day of October, 1981, ORDERED as follows:

1. That the plaintiff's application to enforce litigant's rights by seeking the incarceration of the defendant, Wesley K. Bell, until he complies with this Court's order dated July 22, 1981,

is hereby continued until Tuesday, October 13th., 1981, at 9:00a.m., at which time this Court will hear the application for the incarceration of said defendant, Wesley K. Bell.

2. That the defendant, Wesley K. Bell, personally appear in Court on Tuesday, October 13th., 1981 at 9:00a.m., and show cause why he should not be incarcerated until he complies with the Order of this Court dated July 22nd., 1981, subject to the provisions of para.1 & 3.

3. That in the event that an application is made to the New Jersey Supreme Court for a stay prior to October 13, 1981, and said Supreme Court has not rendered an opinion in regard to said application or has granted a stay of this Court's order dated July 22, 1981, then and in that event the

hearing date of October 13, 1981 set  
forth herein shall be adjourned until  
further order of this Court.

HENRY H. WILEY/s/

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO: C-4054-80

Plaintiff,

TWP. OF EAGLESWOOD, a  
municipal corporation of  
the State of N.J.

vs.

Defendant,

WESLEY K. BELL.

CIVIL ACTION

ORDER

FILED: 10/19/81

HENRY H. WILEY, J.S.C.

This matter being opened to the Court  
by Hiering, Gilmore & Monahan, P.A.,  
attorneys for the plaintiff, Township  
of Eagleswood, and in the presence of

the defendant, Wesley K. Bell, and his attorneys Schuman & Butz, Daniel Sugrue, Esq. appearing, on the continued date of a motion to enforce litigant's rights, and the defendant, Wesley K. Bell, having taken the stand, under oath, and representing to the Court that he will dismantle and remove the two billboard signs in question, as set forth in this Court's order dated July 22, 1981, prior to Wednesday, October 21, 1981, and the Court having considered the arguments of counsel and for good cause shown;

It is on this 19th. day of October, 1981, ORDERED as follows:

1. That the defendant Wesley K. Bell, upon his representation that he will remove the billboard signs and structures in question, shall have until 9:00a.m., Wednesday, October 21,



1981 to remove and dismantle said billboard signs and structures.

2. In the event said billboard signs are not removed in accordance with Paragraph 1 of this order, said Wesley K. Bell shall appear before this Court on Wednesday, October 21, 1981, at 9:00a.m. to explain to the Court why said billboard signs and structures have not been removed.

3. That this Court continues the \$50.00 per day fine it imposed against the defendant by order dated September 24, 1981, until said billboard signs and structures are dismantled and removed from their present location.

4. That this matter is continued until Wednesday, October 21, 1981, at 9:00a.m., at which time this Court shall set the amount due and owing the Township of Eagleswood, in regard to

the \$50.00 per day fine imposed against the defendant, Wesley K. Bell, from September 22, 1981 until the date the billboard signs in question are removed and dismantled. In addition this Court will entertain the application for an award of Court costs to the plaintiff in accordance with the demand for relief set forth in its complaint. The defendant has the right to submit any legal argument he so desires in regard to the setting of the fees due the Township of Eagleswood in regard to said \$50.00 per day and in regard to Court costs.

HENRY H. WILEY/s/

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO. C-4054-80

Plaintiff,

TWP. OF EAGLESWOOD, a  
municipal corporation of  
the State of New Jersey

vs.

Defendant,

WESLEY K. BELL

CIVIL ACTION

JUDGMENT

FILED: 10/21/81

HENRY H. WILEY, J.S.C.

This matter being opened to the Court  
by Hiering, Gilmore & Monahan, P.A.,  
attorneys for the plaintiff, Township  
of Eagleswood, and in the presence of

Schuman & Butz, Esqs., attorneys for the defendant, Daniel Sugrue, Esq. appearing, on an application of the plaintiff to have the Court set the amount due plaintiff in regard to the enforcement of litigant's rights which resulted in a \$50.00 a day penalty being assessed against the defendant for failing to comply with a previous Court order and the Court having considered the affidavit submitted in support of the application, as well as the arguments of counsel;

It is on this 21st. day of October, 1981, ADJUDGED that this Court does hereby award the plaintiff, Township of Eagleswood, a judgment against defendant, Wesley K. Bell, in the amount of \$1,500.00.

HENRY H. WILEY/s/

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO. C-4054-80

Plaintiff,  
TOWNSHIP OF EAGLESWOOD  
a municipal corporation  
of State of New Jersey

vs.

Defendant,  
WESLEY K. BELL.

CIVIL ACTION

ORDER

FILED: 10/22/81

HENRY H. WILEY, J.S.C.

This matter being opened to the Court  
by Hierarchy, Gilmore & Monahan, P.A.,  
attorneys for the plaintiff, Township  
of Eagleswood, and in the presence of  
Schuman and Butz, Esqs., attorneys for

the defendant, Wesley K. Bell, Daniel Sugrue, Esq. appearing, on the continued date of a motion to enforce litigant's rights, and it appearing to the Court from the testimony presented by the plaintiff that the defendant, Wesley K. Bell, has failed to remove the supporting structure for the billboard signs as required by this court's order of October 19, 1981, and several previous court orders, and the court having considered the arguments of counsel, and for good cause show;

It is on this 22nd. day of October, 1981, ORDERED as follows:

1. That the defendant, Wesley K. Bell, or his attorney, produce before this Court on Wednesday, October 21, 1981, before 4:00p.m., a written affidavit based on personal knowledge or testimony before this court as to

why said Wesley K. Bell did not remove the supporting billboard structures in accordance with the orders of this Court, dated October 19, 1981 and July 22, 1981.

2. That the defendant, Wesley K. Bell, shall remove said supporting billboard structures on or before 9:00a.m., on Friday, October 23, 1981. In the event that said billboard supporting structures are not removed in accordance with this order, said Wesley K. Bell shall appear before this court on Friday, October 23, 1981, at 9:00a.m. to explain to the court why said billboard supporting structures have not been removed.

3. That this court continues the \$50.00 per day fine it imposed against the defendant by order dated September 24, 1981, until said billboard

supporting structures are dismantled and removed from their present location.

4. This Court will entertain the application for an award of attorney's fees to the plaintiff due to the continued violation of this court's orders which have necessitated repeated court appearances by counsel for the plaintiff.

HENRY H. WILEY/s/



SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO. L-32143-81EPW

Plaintiff,

WESLEY K. BELL, t/a/ WES

OUTDOOR ADV. COMPANY

VS.

Defendant,

TWP. OF EAGLESWOOD, et als

CIVIL ACTION

ORDER

FILED: 7/2/82

HENRY H.WILEY, J.S.C.

This matter being opened to the Court  
on the return date of the Order to Show  
Cause brought by the plaintiff Wesley  
K. Bell, in the presence of Lawrence  
Silver, Esq., attorney for plaintiff

and Gilmore & Monahan, attorneys for the defendant, Eagleswood Township, George R. Gilmore, Esq., appearing, and this matter having previously been transferred to the Chancery Division and the Court having considered the Briefs and Affidavits submitted in the within matter as well as the arguments of counsel and for good cause shown;

It is on this 2nd. day of July, 1982,  
ORDERED as follows:

That the relief sought in plaintiff's Order to Show Cause that certain sections of the Zoning Ordinance of the Township of Eagleswood, be declared invalid and further to require the issuance of building permits to the plaintiff for the construction of two billboard signs is hereby denied; subject to and until a decision has been rendered in the matter of the

Township of Eagleswood v. Wesley K.

Bell, Docket #A 428-81 T2

HENRY H. WILEY, J.S.C./s/

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

DOCKET NO. A-428-81T2

TOWNSHIP OF EAGLEWOOD,

Plaintiff-Respondent

v.

WESLEY K. BELL,

Defendant-Appellant

FILED: 7/25/83

ELIZABETH MC LAUGHLIN

Clerk

Argued 6/7/83 Decided 7/25/83

Before Judges Matthews, Antell &

Francis.

On Appeal from Superior Court,

Chancery Div.Ocean County

Lawrence Silver argued the cause

for appellant(Mr.Silver,on brief)

George R.Gilmore argued the cause for

respondent(Gilmore & Monahan,attys;

Russell P. Cherkos, on brief)

## PER CURIAM

The municipal plaintiff proceeded in the Chancery Division for an injunctive order which required the defendant Wesley K. Bell(BELL) to remove two commercial billboard signs erected on a premises within the Township. The order further provided that Bell could erect on the property a temporary political sign not to exceed 32 square feet in overall dimension. Bell appeals the prohibitive aspects of the injunctive order.

The two billboard signs are nonconforming uses contrary to a zoning ordinance passed in 1975. Had the signs remained in their same location it is conceded by the Township that it could not have sought their removal. Both of the billboards were, however, moved from their original locations to

different ones on the premises upon which Bell had an easement.

One of the signs was moved as a result of a Chancery action in which it was determined that it was located on land not owned or leased by Bell. He was ordered in that action to remove the offending sign from the owner's property. At about the same time he moved the other sign from one location to another on the same premises.

The Chancery Division found that the relocation of the signs violated Article 6, Section 103-39B of the Eagleswood zoning ordinance which states:

No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the adoption of this chapter.

We agree with the trial judge that the relocation of the signs violated the above provision.

Bell argues that the particular provision is invalid. He contends that the relocation prohibition is an illegal attempt to limit or restrict valid nonconforming uses contrary to statutory authority. N.J.S.A. 40:55D-68. Specifically, Bell challenges as an impermissible restriction on nonconforming uses, the particular subsection quoted above.

In Belleville v. Parrillo's, Inc., 83 N.J. 309(1980), the Supreme Court noted that while the Municipal Land Use Act, N.J.S.A. 40:55D-1 et seq., deems that nonconforming uses have "acquired a vested right to continue in such form, irrespective of...restrictive zoning provisions...[that] statutory guarantee

against compulsory termination...is not without limit." Id. at 315. The Belleville court then noted several types of limitations that the courts of this State have allowed municipalities to impose on nonconforming uses. The limitations that have been allowed include: limits on change of use; the enlargement or extension of the repair or replacement of nonconforming structures, and limits on the duration of nonconforming uses through abandonment or discontinuance. Ibid. The Belleville court further noted that the method typically used to limit nonconforming uses was to prevent increase or change in the nonconformity. Id. at 316. The standard set out in Belleville for determining whether a particular nonconforming use would be allowed to



continue where an increase or change in use was contemplated or undertaken was that: "...nonconforming uses may not be enlarged as of right except where the change is so negligible or insubstantial that it does not warrant judicial or administrative interference." Ibid.

Applying the Belleville standard, the inquiry here is whether the change made by Bell's relocation of the two signs was so negligible or insubstantial as to permit their continuing existence as a valid nonconforming structure. There is no question that the change in location of the two billboards amounted to over 50 feet in one instance and over 100 feet in the other. We conclude that such a relocation is not so negligible or insubstantial a change as to permit their continuance on the

premises.

Bell cites two Pennsylvania cases as authority for his contention that the mere relocation of the signs should not invalidate their nonconforming status. In those cases the moves were found to be insubstantial or negligible. The substantial distance here from the original locations warranted administrative interference by the plaintiff municipality. In any event, "where there is doubt as to whether an enlargement or change is substantial rather than insubstantial, the courts have consistently declared that it is to be resolved against the enlargement or change". Belleville, 83 N.J. at 316.

The defendant also challenges Section 103-8H of the zoning ordinance as being unconstitutional as an impermissible

infringement on the First Amendment right of freedom of speech. We doubt the standing of the defendant Bell to raise this issue. Bell was allowed by the municipality, and indeed it is reflected in the judge's order, to construct a temporary sign bearing a political message as long as it did not exceed 32 square feet in total sign area. It appears that Bell had begun the construction of such a sign on the property. This limitation on square footage was imposed since that is the largest dimensioned sign that is allowable by the section in the zoning ordinance which permits signs. Size limitations, absent an arbitrary determination, are allowable. State v. Miller, 83 N.J. 402, 416 (1980). The limitation here is reasonable.

Affirmed.

SUPREME COURT OF NEW JERSEY  
ORDER DENYING CERTIFICATION  
C-169 SEPTEMBER TERM 1983

21,678

TWP. OF EAGLESWOOD                      PETITION  
Plaintiff, Respondent  
  
FOR  
  
VS.

CERTIFICATION

WESLEY K. BELL,  
Defendant-Petitioner

To the Appellate Division,  
Superior Court:

A petition for certification of the  
judgment in A-428-81T2 having been  
submitted to this Court, and the Court  
having considered the same;

It is ORDERED that the petition for  
certification is denied with costs.

WITNESS, the Honorable Robert N.

Wilentz, Chief Justice, at Trenton,  
this 24th., day of October, 1983.

STEPHEN W. TOWNSEND,/s/

Clerk

Filed: 10/15/83 Supreme Court

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

DOCKET NO. C-4054-80

TWP. OF EAGLESWOOD

CIVIL ACTION

a municipal corp. of

the State of N.J.

DEFENDANT

Plaintiff

BRIEF

vs.

WESLEY K. BELL,

Defendant.

Wesley K. Bell, Pro Se

188 Route #72, P.O.Box 538

Manahawkin, New Jersey 08050

609-597-3222

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6. Rothrock v. Zoning Hearing Bd.of Whitehall Twp., 319 A 2d 432.....	4
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8. State v. Accera, 36 N.J. Super 421.....	4

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POINT I. Defendants billboards  
are nonconforming and  
therefore not subject  
to the Zoning Ordinance.

POINT II. Plaintiffs have allowed  
other competitive firms  
to re-locate & replace  
their billboards across  
the highway from defend-  
ant.

POINT III. Defendant is a candidate  
for the Democratic Party  
for State Senate and  
Plaintiff's are motivated  
by political supression  
as their Mayor is running  
on opposing Republican

ticket for State Assembly

POINT IV. Plaintiffs ordinance regulating signs & billboards is unConstitutional.

POINT V. Section 103-40(A) clearly permits and supports defendants position and any conflicting section renders the ordinance vague and indefinite and therefore unConstitutional.

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## STATEMENT OF THE CASE

A. 1. Defendant has leased lot 21 of block 29, which is a tract of land for billboard use since October 7th., 1960 and entered into a subsequent lease dated April 10th., 1963, which was recorded in Book 2315, page 293, on July 16th., 1963.

2. In or about the year 1975, this defendant purchased a deeded interest in lot 21, block 29, said deed recorded in Book 3453 and Page 120.

3. In or about the year 1977, defendant and his wife sold their interest in lot 21, block 29, in exchange for a permanent easement on the North and South ends of the tract, fronting on Route U.S.9, said easements are recorded of record in Book 3664, page 723, in the Ocean County Clerk's office. These easements covered the

location where the billboards were believed to be located.

4. In or about the year 1979, a purchaser obtained the tract just south of lot 21, block 29 and caused it to be surveyed.

5. Said survey resulted in the finding that this defendant had located the original tract improperly and one billboard was located 110 feet south of the boundary line, while the other billboard was midway, in the originally leased tract and not located on the easement area.

6. The adjacent owner filed suit and obtained a judgment that this defendant had to remove his billboard from his lands.

7. This defendant, at the time the suit was filed, had the land surveyed and monuments placed on the permanent

easement areas.

8. In March, 1981, this defendant began re-locating his two billboards within his deeded easements.

9. The Zoning Officer of Eagleswood Township requested the defendant, on April 2, 1981, to fill out a Zoning Permit Application and assisted the defendant in doing so, in the presence of Stephen Newenhouse, and also stated, in his presence, that the defendant could continue with the re-location work and if a variance would be necessary, there should be no problem. The Zoning Officer had also stated that Mayor Hendrickson ordered him to serve the defendant with a notice of violation.

10. Said signs were reconstructed in their exact size and all bolts and materials were re-used with the

exception of some pole replacement.

11. The additional third sign is being constructed for use as an election advertisement, for the defendants upcoming Senatorial election in November, 1981.

B. THE ENFORCEMENT AT ISSUE:

An issue before this Court is the Plaintiff's unequal application and enforcement of laws against this defendant as a retaliatory political effort to financially and politicallty damage this defendant-candidate.

## ARGUMENT

## POINT I

DEFENDANTS BILLBOARDS ARE  
NONCONFORMING AND THEREFORE  
NOT SUBJECT TO THE ZONING  
ORDINANCE

In (Scavone v. Totowa, 49 N.J. Super 423) the Court held "Uses protected by nonconforming use provisions of Zoning Statutes are the uses in fact existing on land at the time of adoption of a new Zoning Ordinance, and if a use was in fact, existing at such time, it may continue, insofar as the Zoning Act is concerned, so long as it continues without substantial change or enlargement. R.S. 39:10-19, 40:55-48, N.J.S.A.

The right of an owner to continue to exercise a nonconforming use is a property right, a part of the land

title that can only be extinguished by acts or omissions indicating an intention to abandon it.

In (Borough of Saddle River v. Bobinski, 108 N.J.Super 7) the Court held "It has frequently been stated that abandonment of a nonconforming use depends upon the concurrence of two factors; one, an intention to abandon; and two, some overt act or some failure to act, which carries a sufficient implication "that the owner neither claims nor retains any interest in the subject matter of the abandonment". (Yokley, op cit 16-13 at 273-274)

The Supreme Court of New Jersey held in (United Advertising Corp. v. Borough of Raritan, 11 N.J. page 144) that "provision of municipal zoning ordinance regulating outdoor advertising business which required



removal of nonconforming signs within two years of effective date of the ordinance was invalid for conflicting with statute providing that any nonconforming use or structure existing at the time of the passage of an ordinance might be continued upon the lot or the buildings so occupied and was clearly separable from the balance of the ordinance. R.S. 40:55-48 N.J.S.A.

In(Rothrock v. Zoning Hearing Bd. of Whitehall Township, 319A 2d 432) and (Alden Park Corp. v. Phila.Zoning Bd. 84 Pa.D.&C. 40 (1952))the Courts held that the changing of the location and the replacing of the old sign with a new one and changing the type of construction did not change the nonconforming use (1) that the nonconforming right to maintain a sign

is not limited to the exact kind, style, and location of the old sign and (2) that the changes in the new sign were de minimis and would not justify a refusal to approve such sign."

In (State v. Accera, 36 N.J. Super 421) the Court held that a municipality cannot assume to itself power to interfere through its zoning ordinance, with those uses which receive legislative protection R.S. 40:55-48, N.J.S.A.

The Court also held that a municipal ordinance cannot interfere with purpose of statute authorizing continuance, indefinitely, of any nonconforming use existing at time of passage of an ordinance. R.S. 40:55-48 N.J.S.A.

## POINT II

PLAINTIFFS HAVE ALLOWED OTHER  
COMPETITIVE FIRMS TO RELOCATE  
AND REPLACE THEIR BILLBOARD  
ACROSS THE HIGHWAY FROM DEFENDANT.

On page 20, of the (Regents v. Bakke  
case, no.76-811,dated June 28,1978) the  
U.S. Supreme Court said: "the  
guarantees of the Fourteenth Amendment  
extend to persons. It's language is  
explicit: "No state shall...deny to any  
person within its jurisdiction, the  
equal protection of the laws". It is  
settled beyond question that the  
"rights created by the first section of  
the Fourteenth Amendment are, by its  
terms, guaranteed to the individual.  
They are personal rights".

(Shelley v. Kraemer, supra at 22.  
Accord. Missouri ex rel.Gaines v.

Canada, supra at 351; McCabe v. Atchison T & S.F.R.R.Co. 235 U.S. 151, 161-162 (1914) the guarantee of equal protection cannot mean one thing when applied to a person of another color. If both are not accorded the same protection, then it is not equal.

The defendant contends that his policy should apply in the current case because he is being discriminated against because he is a candidate for State Senate for the Democratic Party.

New Jersey case law holds that arbitrary enforcement invalidates an ordinance.

## POINT III

DEFENDANT IS A CANDIDATE FOR  
THE DEMOCRATIC PARTY FOR STATE  
SENATE AND PLAINTIFFS ARE MOTIVATED  
BY POLITICAL SUPPRESSION, AS THEIR  
MAYOR HENDRICKSON IS RUNNING ON THE  
OPPOSING REPUBLICAN TICKET FOR  
STATE ASSEMBLY

Plaintiffs are using this action for  
the sole purpose of preventing  
defendant from constructing political  
signs within the Eagleswood Township  
boundaries and to cut off the \$4,000.00  
yearly income now being received on the  
two billboards located here since  
1960.

The Supreme Court of New Jersey held,  
in (State v. Miller, 83 N.J. 403) "(6)  
so construed and as conceded before us  
by the Borough, the ordinance procludes

a residential property owner from communicating any other than an extremely limited message by the use of stationary signs on his or her property."

In particular, the ordinances restriction on the manner and place of defendants speech, so severe as to amount to an absolute ban on political speech, offend the First Amendment.

In (Farrell v. Twp. of Teaneck, 126 N.J. Super 461) the Court held "that zoning ordinances prohibiting all political signs were unConstitutional".

In the case of (Metromedia v. San Diego, #80-195, decided July 2nd., 1981) the U.S. Supreme Court, by a vote of 6 to 3, struck down as a violation of the free speech guarantees of the First Amendment, an ordinance that prohibited all billboards except advertising signs

on the premises of a commercial  
establishment.

POINT IV  
PLAINTIFFS ORDINANCE REGULATING  
SIGNS AND BILLBOARDS  
IS UNCONSTITUTIONAL

The Plaintiffs ordinance does not provide for or permit any political expression sign anywhere within the municipality and therefore is unconstitutional on its face, (Farrell v. Twp. of Teaneck, 126 N.J. Super 461) and (Metromedia v. San Diego, #80-195 decided July 2, 1981).

In (State v. Miller, 83 N.J. 405) the New Jersey Supreme Court found that "limitations on the size of a sign may be imposed if the allowable square footage is not determined in an arbitrary manner; the size limits if any, must be large enough to permit viewing from the road, both by persons in vehicles and on foot".



POINT V

SECTION 103-40 (A) CLEARLY  
PERMITS AND SUPPORTS DEFENDANTS  
USE OF HIS "NONCONFORMING STRUCTURES"  
WHILE THE PLAINTIFFS IN THIS CASE,  
ATTEMPT TO USE SECTION 103-39,  
CLASSIFIED AS "NONCONFORMING USES  
OF LAND".

A nonconforming use of land would be  
classified under 103-43, "Off street  
loading and unloading space of parking  
area".

## CONCLUSION

1. The Zoning Ordinance of the Township of Eagleswood, relating to signs and billboards, should be declared unConstitutional because it does not provide for any political signs protected under the First Amendment of Political Speech.
2. The Zoning Ordinance of the Township of Eagleswood relating to structures, permits the continuation of defendants billboards in their present location.

## OTHER AUTHORITY

R.S. 39:10-19 N.J.S.A.

R.S. 40:55-48 N.J.S.A.

Zoning Ordinance Section 103:39

Zoning Ordinance Section 103-40(A)

Zoning Ordinance Section 103-43

WESLEY K. BELL, PRO SE/s/

7/6/81

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SUPERIOR COURT OF NEW JERSEY

CHANCERY DIV. OCEAN COUNTY

Plaintiff,

TOWNSHIP OF EAGLESWOOD

a municipal corporation of  
the State of New Jersey.

vs.

CIVIL

ACTION

AFFIDAVIT

Defendant,

WESLEY K. BELL

STATE OF NEW JERSEY )

COUNTY OF OCEAN ) SS:

WESLEY K. BELL, of full age, being  
duly sworn according to law, upon his  
oath, deposes and says:

1. Because of a judgment obtained by  
the adjacent property owner, I had to

move the billboard 128 feet north of its previous location to place it on the southern easement area of lot 21, block 29, which is vacant land except for my billboards.

2. Because of a judgment obtained by adjacent property owner, I had to move a billboard 250 feet north of its previous location to place it on the northern easement area of lot 21, block 29.

3. The R.C. Maxwell Company, last year, moved their billboard 328 feet south of its previous location and reversed its direction to face northbound traffic instead of southbound traffic and in doing so, the R.C. Maxwell Company completely rebuilt the entire billboard with all new materials and changed the type of construction from steel to wood

framework. This was done without any opposition or problems in accordance with Zoning Ordinance Section 103-40(A).

4. I applied for a Zoning Permit on April 2nd., 1981 at the request of the Zoning Officer even though I informed him I did not need one.

5. In the event the Court denies this defendant his use of the billboards and easements, they will become worthless and this defendant will suffer great irreputable harm.

WESLEY K. BELL/s/

Sworn to and subscribed  
before me, this 6th. day  
of July, 1981.s/Mark J. Arbus,  
attorney at law

## AMENDMENT I

FREEDOM OF RELIGION, SPEECH AND

PRESS: PEACEFUL ASSEMBLAGE;

PETITION OF GRIEVANCES

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

## AMENDMENT XIV

CITIZENSHIP RIGHTS NOT TO BE

ABRIDGED BY STATES

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law

which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction, the equal protection of the laws.



## SUPREME COURT OF NEW JERSEY

TWP. OF EAGLESWOOD, NOTICE

Plaintiff OF

APPEAL

V.

CIVIL

ACTION

WESLEY K. BELL,

Defendant

NOTICE is hereby given that WESLEY K. BELL, Individually and d/b/a WES OUTDOOR ADVERTISING COMPANY, defendant, hereby appeals to the United States Supreme Court, from the final judgment of denial, filed in this matter on October 25th., 1983 and requests a stay of the penalty imposed in this matter by the lower court, under Rules 18, 50 and 51.

Application for said stay is being

made simultaneously with this notice of appeal.

WESLEY K. BELL,/s/

Pro Se

P.O.Box 538

Manahawkin, N.J. 08050

Rec'd: 12/20/83

Supreme Court of New Jersey

DOCKET ENTRIES-N.J. SUPERIOR COURT  
CHANCERY DIVISION-OCEAN COUNTY

Docket# C0405480

CNTY 15 OCEAN

C. TP 13 INJUNCTION

PLNTFF EAGLESWOOD TOWNSHIP OF

DFNDNT BELL, WESLEY K.

P.ATTY GILMORE, GEORGE R. PA# 8026

D.ATTY PRO SE DA# 0

FILE DATE:

052281 1 Verified Complint

052281 58 Pltf's show cause 6/9/81

060281 8 Afft.of Svs.

070281 99 Order re:future date of  
trial

072281 99 Order to comply w/zoning  
code

091681 58 Show cause for 9/22/81(P)

092481 99 Order finding deft.in  
violation

092381 14 Appeal

100981 99 Order continuing  
application  
102381 6 Pltf afft in supp of  
application  
102781 36 Judgment  
103081 99 Order to produce & rmv.  
billboard  
110681 6 Afft.of George R.Gilmore,  
Esq.  
120381 37 Abstract of Judgment  
031082 99 Order for Discovery  
041883 90 Writ of Execution  
072683 99 Opinion affirming decision

DOCKET ENTRIES-APPELLANT DIVISION  
SUPERIOR COURT

A-00428-81 Team 02

EAGLESWOOD, TOWNSHIP OF,

RESPONDENT

V.

WESLEY K. BELL,

APPELLANT

Date of Appeal	810923
Date Transcript rec'd	811105
Date Appellant brief rec'd	820527*
Date Respondent brief rec'd	820723*
Date to Court	830516
Date Argued	830607
Date Final Disposition	830725
Date Docketed	810930

TIME 1000 LOCATION TRENT

1 Substitutions

13 Remarks

Park G. RAM MPA GBF

Affirmed

Atty: Silver, Lawrence

Appl: Bell, Wesley K. PD COUN

Brief 820527 POS 820527 Appendix 820527

POS 820527 810930,

ORAL ARGUMENT REQUESTED 830208

SUBSTITUTION (1) 820118 SCHUMAN & BUTZ

00203917

MOTION: M-00294-81 39 M/FILE NUNC PRO

TUNC FILED 810923 ANS TO COURT 811001

DOCKETED 810930 DECISION 811001 PART

G RAM 58P JJP GRANTED SCHUMAN/BUTZ

MOTION: M-00335-81 27 M/STAY FILED

810930 ANS 811001 TO COURT 810930

DOCKETED 811002 DECISION 811001 PART

G RAM 58P JJP DENIED SCHUMAN 6 BUTZ

MOTION: M-02643-81 50

M/REMAND-TEMPORARY FILED 820311 ANS

820322 TO COURT 820414

DOCKETED 820323 DECISION 820426 PART G

RAM DENIED.

MOT.DEFY: NOTED 820311 CORR 99 OTHER

FEE/SCTY: FEE 810923 \$20 PAID FINANCE:  
TO 810923 FROM 811006

FEE/SCTY: FEE 830812 \$5 PAID FINANCE:  
TO 830812 FROM 830901

ATTY: HIERING/GILMORE/MONAHAN

RESP. EAGLESWOOD, TWP. OF, PD COUNT

BRIEF 820723 POS APPENDIX 820723  
POS 810930

FEE/SCTY:FEE 820723 \$5 PAID FINANCE:  
TO 820723 FROM 821221

TRANSCRIPT:(9) HEARING 810709 VOL. 1  
ORDERED 810918 DUE 811018 4 COPIES  
FILED 811105 CRT.

TRANSCRIPT: 9 HEARING 810722 VOL.1  
ORDERED 810918 DUE 811018 4 COPIES  
FILED 811105 CRT.

OPINION: ASSIGNED 830607 MAJORITY  
830720 CONCURRING DISSENTING  
AFFIRMED PUB

SUPREME CT: 811009 1 KEEP COPY OF M/L/A

TO SUPREME COURT(SCHUMAN/B)

SUPREME CT: 811014 2 KEEP SUP CT ORDER  
DENYING MOTION FOR STAY PENDING APPEAL.

SUPREME CT: 830812 3 KEEP NOTICE OF  
PETITION FOR

CERTIFICATION(SILVER,LAWRENCE) (JLT)

SUPREME CT: 831025 4 PURGE SPMCT ORDER  
DENYING PET FOR CERT.

REMARKS: 810923 1 M-294-81 M/FL N/A

NPT:AFFT IN SUPP;PROOF OF  
SERVICE(SCHUMAN/B)

810930 2 AFFT IN SUPP:CERT OF  
SERVICE(SCHUMAN/B)

811001 3 LTTR BRF/APPX IN OPPO  
TO M-335-81; CERT OF  
SERVICE(HIERING/G/M)

811001 4 M-294-81 O/G/M/FL N/A  
NPT (RAM)

811020 5 CASE INFORMATION  
STATEMENT REC'D:(SCHUMAN/B)

811231 6 SCHEDULING ORDER



ISSUED.

820118 7 SUB OF ATTY (LAWRENCE  
SILVER IN PLACE OF SCHUMAN/BUTZ)

820311 8 AFFT IN SUPP OF  
M-2643-81;PROOF OF MAILING(SILVER,L)

820322 9 AFFT IN OPPOSITION TO  
M-2643-81 (HIERING/G/M)

820527 13 HEARING DATES OF  
810709,810722,ARE IN APPL  
APPNX(LAWRENCE SILVER) CR

820726 10 ORD SUPPRESSING BRF  
OF RESP TWP OF EAGLESWOOD(RAM)

821115 11 COURTS ORDER  
VACATING SUPPRESSION ORDER OF 820726  
FOR RESP.TWP OF

821115 12 EAGLESWOOD, ETC  
(RAM)DAR.

DOCKET ENTRIES

SUPREME COURT OF NEW JERSEY

Docket #21,678 Cert #C-169-83

Township of Eagleswood P-R

Gilmore & Monahan, Esqs.

v.

Wesley K. Bell D-P

Lawrence Silver, Esq.

App Div Docket #A-428-81T2

App Div Decision date 7/25/83

F8/12/83 Notice of Petition(+Afft)

8/22/83 Pet for Cert & Appendix  
(+Afft)

8/22/83 App Div Briefs

8/22/83 \$250 Security Deposit

9/6/83 Resp Brief(+Afft)

9/6/83 App Div. Briefs & Appx.

9/7/83 Proof of Service-Gilmore, Esq.

10/25/83 Order denying cert.

12/20/83 Notice of Appeal to  
U.S. Supreme Ct.- Bell

12/20/83 Motion for Stay pending Appeal  
to U.S. Supreme Ct.-Bell

12/30/83 Brief in opposition to motion  
for stay-Gilmore, Esq.